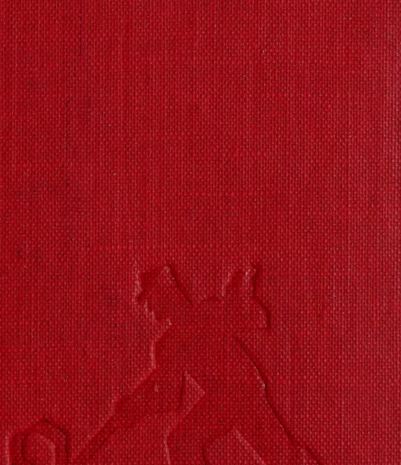

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LABOR TODAY AND TOMORROW

HERE is an objective and thorough discussion of relations among management, labor, and government during the war and of the potential consequences in the post-war period. The author, of the staff of the Research Institute of America, uses the famous Montgomery Ward case to symbolize many of the issues for both management and labor. With Sewell Avery's aggressive policies as the motive force, a dramatic and significant story is unfolded—a story that may have a profound effect upon this nation's history, for the social conflict, long controlled by the war economy, is waiting to erupt with new violence.

The author points out that while public attention has been focused on government's growing control over business, the concomitant power of the state over labor has hardly been noticed, least of all by the unions themselves. Businessmen looking for "progress" and labor leaders looking for "reform" are torn between fear of government and the desire for its protection against the hardships of economic dislocation.

The controversies of wartime labor relations—maintenance of membership, wage levels, union participation in management, workers' resistance to technological changes, the internal economic and political dissensions in the house of labor—are the time bombs which will explode tomorrow. For management as well as labor, for government as well as the public, these are the perils of the future—a period made more precarious by the frustrations of a transition economy, the re-employment of millions moving out of war industry to peacetime activities, the need for more jobs, the absorption of the returning veterans, the readjustment of wages, the hunt for new customers as Uncle Sam withdraws from the market.

These are the burdens not of abstract Business but of business*men*, not of Labor but of working*men*, pursuing their own interest and identifying it always with the welfare of the whole nation. Out of the balance these adversaries strike will come history's verdict on America's effort to achieve both freedom and security.

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LABOR

Today and Tomorrow

By AARON LEVENSTEIN

NEW YORK
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1945

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FIRST EDITION

TO

Pearl, Beth, and Nora

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PREFACE

Nowadays events move so fast that we must know where we're going before the historian has had time to tell us where we've been. We simply can't afford to wait on the scholar for his voluminous story of our recent experience. That, in brief, is the justification for this book which attempts to underscore the trends pervading labor's yesterday and reaching into the nation's tomorrow. Some of these trends, I believe, have been completely ignored or misunderstood.

If the world is to escape new disasters, it must calmly assess the rival claims of social contenders. The international war which fascism waged began as a civil war in which Hitler's first victim was the German labor movement. The issues in that war have not been settled on the battlefields of Europe, nor are they confined to any one continent.

What we do to labor and what labor does to itself will determine the fate of the United States, and ultimately the world.

I am heavily indebted to so many sources that I cannot even undertake to recite them. A partial settlement of the debt is made through the use of footnotes. I refrain from enumerating the individuals in business, labor, and government whose conversations and correspondence have influenced this book, but I do so only to spare them any responsibility for my conclusions. I must add a word of thanks, however, to my secretary, Mrs. Irene S. Turchin, for her organization of my files and her handling of the manuscript.

A. L.

LABOR TODAY AND TOMORROW

I

INTRODUCTION

CHAPTER I

TWO GI'S AND A MILLIONAIRE—THE CONFLICT

When Francis Biddle of the Philadelphia Biddles, aristocrat and United States Attorney General, ordered the soldiers on April 27, 1944, to conduct Montgomery Ward's president to the street, Sewell Avery clenched his fists and muttered through his teeth: "You New Dealer, you!" In some circles, those are dirty words; in others, they win elections.

Outside the Montgomery Ward building, steel-helmeted soldiers were on duty in the pleasant April morning. Mr. Avery did not mind his brief absence from the leather chair behind his big, impressive desk, occupied for the moment by Undersecretary of Commerce Wayne Taylor, of the upper-class Chicago Taylors. Hatless and without his topcoat, Mr. Avery arrived on the pavement, the easy burden of two GI's who, when they were drafted, had no idea that this was to be military service. For a moment the three paused, faced the lenses, and waited for the camera shutters to click. Mr. Avery got to his feet, bowed politely to his porters, gave the newsmen his version of what had happened, and stepped into his limousine.

As his chauffeur guided the car through the Loop and on to Lake Shore Drive, Mr. Avery must have realized that he was making history, at least a footnote in it. To few men is it given to become the symbol of a whole panoramic sweep of events, the personification of a movement or a cause. When it happens to a man, his lot is a combination of cheers and jeers, beatitudes and anathemas. The headlines shriek his name, the magazines show his face, the pulpits resound with homilies on his conduct. The public indifference that is the harvest of a normal life no longer greets him. He is endowed by some with all the virtues, by others with all the vices. He is hero or scoundrel, genius or fool—it all depends on the paper you read.

New York's *PM*, for example, on April 28, shouted "Insurrection!" at the embattled businessman. Just fifty years before, to the month, another man in the same city, also waging the economic war, was being denounced as a revolutionist against his government. It was Eugene V. Debs, leading the strike of the railway workers, ultimately jailed for violating a court injunction obtained by another Attorney General on the ground that the delivery of U.S. mails was being hindered.

When Harrison Spangler, chairman of the Republican National Committee, spoke of Avery as an unfortunate "storekeeper," he was not wrong. As Debs was just a union organizer fighting for his union, Avery was a shopkeeper fighting for his business. In the case of both men there were issues surrounding their activities that they themselves did not understand. True, one saw and the other sees in himself the spokesman for a cause. When Avery appeared before 300 of his stockholders in the Crystal Ballroom of the Blackstone Hotel, almost all rose to their feet in an ovation that lasted several minutes. "Thank you very much," he said, and added: "It is impossible to express the thrill of the approval your applause indicates, I presume, for the principles represented by the company's position."

Men like to identify themselves with principles, but in the midst of the conflict there is rarely a vision of the ebb and flow of the events in which they participate. Debs did not foresee that his course would take him through a revolutionary change in his own thinking and make him a Socialist. Nor could Mr. Avery, on that April morning of his temporary exile from his own establishment, know the direction in which he had turned his face when he "defied the government." Debs did not realize in 1894 that he was on his way to launching a program which would eventually split American labor into craft versus industrial unions, and in 1944 Mr. Avery could not anticipate the consequences of his defiance.

Mr. Avery did stand for a very fundamental principle—the exclusive right of management to run its own affairs, free from the interference of union organizations, and without the intervention of government in the relationship between management and labor. In refusing to obey the War Labor Board's order to sign a union contract for maintenance of membership and wage increases, he was merely reiterating the policy for which he had fought consistently over the years. If his conflict with labor and government finally erupted on the front pages, it was only because the war itself had set the stage for the drama.

When Adolf Hitler drove Benes out of Czechoslovakia, a presentient Avery would already have felt the hands of two American soldiers under his armpits. The Japanese planes that roared over Pearl Harbor should have heralded the voice of the U.S. Government in his own ears. For surely the earth cannot shake under our feet without some of us losing our footing. War is no friend of the status quo. Why should it respect men's fondest possessions—whether goods or freedoms—if it is no respecter of their very lives?

When war came to the United States, it effected important changes—but none more basic than in the field of management-labor relations. The economic atmosphere was new, unprecedented—there was a job for every man, woman, and even child who was willing to work. The manpower hunger was so great that the government sought methods to shanghai those who were reluctant. For most of us, bread is a compound that can alter the chemistry of the spirit far more effectively than patriotism or any other sentiment, and labor was willing to co-operate. For management, too, there was the essential ingredient. But each had its own reservations, inspired by not-so-distant memories. Labor would co-operate if bread was guaranteed; industry would go along if profit was assured. There was a willingness to make some sacrifices, but only when the need was beyond doubt.

After Pearl Harbor, employers and unions checked their guns, but not their suspicions. Government controls submerged certain—not all—phases of the irrepressible social conflict. They are still there. Enough steam has escaped already to show the kind of pressure that will be released when "normalcy" lifts the lid. Avery's fracas with the government, John L. Lewis's and James C. Petrillo's, are harbingers. But these men are not alone. From the trade associations, manufacturers' groups, boards of directors, there has been more than a mutter about the restraints of wartime—the priority orders, the price ceilings, the rationing. From the floor of trade union meetings there has been more than a murmur against wage stabilization, the no-strike pledge, the manpower regulations.

The war has worked wonders in social attitudes. New principles have emerged, new duties and rights; it remains to be seen whether for good or ill. But the keynote of the future lies in one fundamental change that now awaits us. It is this: war brought us an uneasy domestic truce; peace now brings us unbridled industrial war.

The war has instilled resentments in all of us. Avery had his prices controlled, his sources of supply curtailed, had to fill out enormous government forms, pay extraordinarily high taxes. The little businessman has had those worries, plus the prospect or reality of closing his doors altogether. The worker has had his wage pinned down, part of it withheld while prices rose, his rations cut, his right to take a better-paying job denied. Over and above these abnormalities of economic life, we have all felt the cold winds blowing near our loved ones. With or without reason, we shall want to lunge back at fate, and every point of friction will be sharpened by our recent experience. Those points are many.

The ironies of history and personality made Sewell Avery a center of national issues, irritations, and conflicts. The two soldiers who carried him out of the Montgomery Ward building held in their arms the focus of America's most strident postwar problems: collective bargaining, the wage structure, the social responsibility of the businessman. Less obvious but still threads fringing the same fabric are those equally dangerous problems: the schisms in labor threatening jurisdictional disputes that will impede reconversion; the internal rivalries of union groups; the suicidal techniques of "featherbedding" and other restraints on production; the demand for "royalties" as a tax on profits; even the economics of racial intolerance. All are part of the picture in which Avery snatched, if only for a moment, the most prominent place. When he has lapsed into the background and people remember him only as the man who was toted from his office, those issues will be with us yet—plaguing our workaday lives, dominating our newspaper headlines, shaping our standards of living, ultimately setting the boundaries of our freedom.

For implicit in the settlement of all these issues is the relationship of government to the individual. If fascism failed to make us sensitive to that problem, our intimacy with government control in wartime must surely have done so. It did in the case of Sewell Avery—explosively so. He had long been aware of it, and in the most personal terms. Indeed, he was among the first of America's prominent businessmen to get his dander up over government intervention in economic life. Back in 1935, in the early days of the New Deal, he deliberately permitted himself to be stripped of his "blue eagle" by refusing to pay his NRA assessment.

But Avery isn't the only one who's ready to take on the government and challenge its right to tell him how to run his business. On the other side stands labor, equally determined to draw the line at some point beyond which it will not allow government to go. John L. Lewis drew that line a long time ago. Both the AFL and the CIO are demanding a return to prewar "free collective bargaining." That was illustrated very clearly at a *New York Times* panel discussion on October 10, 1944, when the official spokesman for the AFL, Robert J. Watt, said: "I want to see government controls removed as rapidly as possible." He was rebuking Philip Murray of the Congress of Industrial Organizations, who had just finished a plea for peacetime planned economy. Murray was not backing water—he was only reverting to his usual thought patterns—when he replied: "Every sane, thinking citizen wants government to get its nose out of business as speedily as possible."

But Murray revealed his plight when he continued: "I want the government to get out of business; I want the government to get out of my business just as the businessman wants it to get out of his business. But I don't want a veritable bedlam of confusion and that's why I make the suggestion that government and labor and industry ought to get together and see what they can do." Thus Murray stood spread-eagled between the poles of free enterprise and government supervision.

As these exchanges passed between the labor leaders, the antigovernment tone grew stronger. Bitterly, Watt told the audience: "Government intervention has already strangled collective bargaining."

From David B. Robertson, president of the independent Brotherhood of Locomotive Firemen and Enginemen, came approval: "I should like to say amen to that." Quickly the CIO president hastened to join the others, his words more moderate because of the then pending fourth-term election: "My experience with the government agencies that have been established to deal with disputes arising out of collective bargaining has left me a little bit disappointed." Robertson added his reason: "There is no such thing as a disinterested tribunal."

Yet all of them still wanted government assistance. Watt, with his no-government policy, wanted the extension of federal social security legislation; Murray, some government planning; Robertson held on fervently to the Railway Labor Act "under which we operate quite satisfactorily, provided its administration is not interfered with."

Both labor and management, in viewing government action, woo it and eschew it at the same time. The advocates of a brave new world are still hungry for the security that comes from familiarity, and familiarity is to be found only in the mean old world. Businessmen looking for "progress" and labor leaders looking for "reform" still cling to old ways, even though they may seek new ends. Along with Mr. Avery, they are victims of nostalgia; with varying degrees of eagerness, they want to go back to prewar days. They will fail, for next year cannot possibly be 1939.

Not until they have defined their relationship with government and mapped out the areas of individual authority and public control will they resolve their own inner difficulties, the necessary prelude to resolving the conflicts between them. Meanwhile, government regulation will continue. We can slough off price control and priorities, but we will not be able to escape government action at the points where management and unions come to grips. Mr. Avery will not like it. Neither will Bill Green and Phil Murray. But it will be a neurotic dislike—a "now I like it, now I don't" affair. They will oppose government control and demand it in the same breath. And whatever they get, they will chafe with frustration.

Mr. Avery, for example, is the John Hampden of contemporary free enterprise. "In good citizenship," he says, he cannot comply with the government's orders. As a devoted citizen of free enterprise, he is right. He cannot be loyal to laissez-faire and respect government intervention at the same time. Professor Sumner Slichter says in his *Modern Economic Society* that "perhaps the most striking aspect of the theory of free enterprise is its assertion that intervention of the government in economic activities is unnecessary." That's Mr. Avery's firm conviction.

There is no doubting his sincerity, though there may be a question as to his consistency. For at the same time that he denounces government intervention, he is the beneficiary of its most obvious participation in economic life. Five years before Sewell Avery jumped into the headlines, or was carried into them, Jerome Frank pointed up this anomaly in his *Save America First*:

> "Mr. Silas Strawn, a few years ago, objected strenuously to New Deal expenditures as un-American and hostile to business. Mr. Strawn was Chairman of the Board of one of our principal mail-order houses. What would happen to Montgomery Ward if the government accepted Mr. Strawn's principles of 'sound government' and ceased to 'pauperize' Americans by getting out of the postal service and turning it over to private concerns, which would sell that service at a maximum profit? Would that be good for the mail-order business?"

Avery knows it wouldn't, and in fighting the concept of government intervention he has not deceived himself. When he took over Wards in 1931, it was nine million dollars in the red; in 1934 it was able to show a profit of ten million. He does not deny that Roosevelt, the spendthrift, threw a good portion of that money his way. *Fortune* magazine in 1935 quoted him as saying: "Some of our best business is in the most distressed areas."[1] The government was raising purchasing power and making new customers accessible to Wards. Avery was willing to reap the harvest, while denouncing the sower. He knew what he was doing, and said frankly that he thought the New Deal was immediately beneficial but in the long run would be unfortunate. From the standpoint of individualism, he was not wrong. The price for government aid was inevitably government control.

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[1] For the early history of Sewell Avery's activities in Montgomery Ward and United States Gypsum, see *Fortune* magazine, January, 1935, page 69 et seq., and February, 1936, page 87 et seq.

There you have the rub, and the irony, of all government regulation. Somebody always wants it, and somebody else doesn't. But nobody is ever consistently on the side of the pros or the cons. We take turns at it.

Adam and Eve, alone in the Garden of Eden, were subject to few regulations. It was only after the serpent slithered in that things began to get crowded, and the first of all regulations was enforced. Since then the congestion has increased, and the regulations have multiplied. More and more the arm of government has been extending its reach until today—

Mr. Avery rises in the morning and washes his face with a publicly-owned water supply, subject to direct municipal control. He has the opportunity, though he does not use it, to send his children to a publicly-owned school. His chauffeur drives him across a publicly-owned street to his office. He steps into the elevator which is regularly inspected by a government agent. He gets to his desk and opens his mail which the government has brought him. He may be interrupted by the telephone, a service which is strictly regulated as a public utility. It is scarcely ten o'clock in the morning, and already the hand of government has tapped him on the shoulder a half-dozen times.

Mr. Avery would not be in business today if it were not for the government. He could not run Montgomery Ward, United States Gypsum, Hummer Manufacturing Company, or continue his directorships in United States Steel, Armour & Company, Chicago *Daily News,* Chicago Great Western Railroad, Commonwealth Edison Company, Container Corporation of America, Nash Motors Company, Northern Trust Company, Pullman, Inc., Peoples Gas, Light & Coke Company, and Pure Oil Company. They exist and can operate only because government has made rules for the game. In fact, business made modern government for that purpose. Once property was acquired, the owner wanted regulations that would protect his ownership. Every law of property illustrates that: the filing of titles to real estate; inheritance; legal rights under negotiable instruments (which Mr. Avery handles by the hundreds of thousands in the form of money orders and checks). None of this met with resistance because the business community was unanimously for it.

Eventually, a second kind of regulation sprang out of the mind of man as he went about the business of filling his belly, clothing his back and keeping a roof over his head. Rival groups wanted protection against the practices of others or favors against competitors. Came the tariff laws, antitrust laws, the Federal Trade Commission Act, the Robinson-Patman Act, and the like.

Others got the idea, too. Consumers brought pressure for control of public utility rates, for Pure Food and Drug Acts. Businessmen stopped saying: "The public be damned" and began to talk about "service." Labor organized and won the Wagner Act, the Social Security Act, and the Wage-Hour Law. Lawyers stopped talking about the law of master and servant and began to speak of labor law.

All these regulations were inevitable. They were the logical consequences of the existence of groups with common interests, sufficiently numerous and well enough organized to win protection or assistance in the economic scramble. In a democratic nation, which by definition permits opposing groups to exist, such regulations will continue to pour through the legislative hopper or out of the administrative mimeograph machine. They will change from time to time, will be amended, revised, altered. But they will continue.

There is still another kind of regulation. It is not the product of men or groups, but of events—though caprice and ineptitude may play a part in their formulation. This type of regulation is the inescapable consequence of a stubborn environment that overrides individual desire. No businessman wanted the limitation and conservation orders that eventually plunged America into conversion for war, yet it was businessmen serving as dollar-a-year men or as members of "industry advisory committees" who framed them and enforced them. Labor did not want the manpower controls, yet its representatives sat in the War Manpower Commission and shared the responsibility. And at every stage of the industrial mobilization, the government faced resistance if not mutiny.

Avery was not alone. The widely printed news photo of Avery and his GI escort shows one-half of the story: the Army versus the practitioners of free enterprise. The other half is any picture of the Army occupying the mine tipples when Lewis struck: the Army versus the practitioners of free enterprise in collective bargaining.

For the unions, too, the question was whether or not they would be able to throw their economic weight around without the restraints of governmental action. Labor's motives were inspired by the same fears and uncertainties about survival as business felt concerning its tomorrow, but there were three very substantial reasons why organized labor put up little resistance to government. In the first place, unlike business, it had confidence in the Administration. In the second place, it was afraid to resist because of its knowledge of its own weakness. But even more important, it did not realize the full significance of the government's intervention in the delicate balance of labor relations.

As government closed in on business with a network of inevitable wartime controls, labor too was being confined to narrower areas of activity. At the very outset, it was forced to surrender its one real weapon—the power to interfere with production by striking. In return for that sacrifice it was given the guarantee of the United States Government that its organizational security would be preserved by maintenance of membership. But reliance on government meant submission to government. Labor was no longer free to roam the areas of potential economic gain and gather up rosebuds where it might. The unions could no longer impose the closed shop where industry was too weak to deny it. Nor could they squeeze out a greater meed of wages as the free play of collective bargaining would have provided. Even where their own economic power might have wrested "better conditions"—paid vacations, employer-financed insurance programs, and so on—government was applying the brake. In some respects the war did make it possible for the unions to extend their participation in the management of industry, but government did much to halt the invasion of the management prerogative. On the whole, despite some victories for labor, the war narrowed the area of collective bargaining.

The consequences will not be soon forgotten. It is easy to assume that the war controls will be lifted after a decent transition period and that the nation will then start back to old principles and old relationships. But any such conclusion over-looks the fact that the war did not wholly arrest the trends that had been in motion before. In many respects, the abnormalities of wartime merely speeded us further in directions already mapped out in the preceding years. Increased government intervention in union affairs was a reality before the war.

The National Labor Relations Act, for example, had begun to change the character of industrial relations. Despite the NLRB's reluctance to police the unions, the portents were visible. A government agency had been given authority to "certify" unions as bargaining agents. Labor, rushing to take advantage of the Wagner Act, did not concern itself with the thought that an authority which can certify can also revoke its certifications. Under the mandates of war, that power emerged explicitly.

Much that has been done by the War Labor Board will be undone, but its decisions will leave a permanent imprint. As new crises arise to threaten industrial peace, the WLB's techniques will be adapted to the prevailing circumstances. The basic moral in the history of the WLB is the effectiveness of government action, despite some exceptions, in the suppression of domestic conflict.

The story of labor in wartime, then, is first of all an account of growing governmental power over the unions as well as management.

From the wartime clashes on the home front it is clear that labor and management never buried the hatchet, but fretted under a peace they never made. Government imposed a truce by sheer compulsion. It couldn't last. The very operations of that truce have shaped the conditions that will determine the nature of the renewed struggle.

The armistice gave both sides the opportunity to rearm, and the significance of these past few years lies in the new contrast of power that has emerged. Both management and labor have suffered losses in these uneasy years, but the reopening of hostilities reveals the unions in the more precarious position. The principle of collective bargaining will stand, but its free practice has atrophied, a result that the War Labor Board itself fears. The wartime limitations on the subject matter of bargaining now drop away, but the resistance of management as it faces labor across the conference table looms greater. And labor's problem will be complicated by the new status of government as a party to industrial relations.

The controversies between business and labor—over maintenance of membership, wage levels, union participation in management, workers' resistance to technological changes—and the internal dissensions in the house of labor, are the time bombs which will explode tomorrow. These are the perils of the future—a period made more precarious by the frustrations of transition, the redeployment of millions moving out of war industry to peacetime activities, the need for more jobs, the absorption of the returning veterans, the readjustment of wages, the hunt for new customers as Uncle Sam withdraws from the market.

These are the burdens not of abstract groups but of men—not Business but business*men,* not Labor but working*men*—pursuing their own interest and identifying it always with the welfare of the whole nation. Out of the balance they strike will come history's verdict on America's effort to achieve both freedom and security.

In telling this personal story of millions, we shall find it helpful to use the Montgomery Ward case, which, quite accidentally, synthesizes most of the issues for both management and labor. With Sewell Avery's aggressive policies as the hub, the reader can move along the major spokes of the labor controversy and watch the wheel of national history turn toward tomorrow.

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II

DISARMING FOR WAR

CHAPTER II

BRIEFED FOR BATTLE—THE BACKGROUND

In October, 1938, the world was settling back with a sigh of relief. Neville Chamberlain had finished explaining to the House of Commons why the Munich Pact meant peace in our time and Winston Churchill, from the back benches, had replied: "The utmost that the Prime Minister has been able to do for Czechoslovakia was to arrange that the German dictator, instead of snatching his victuals from the table, has been content to have them served to him course by course." But for a few months, at least, the breathing spell was to last.

The October term of the Supreme Court had got under way and the Court was preparing to render decisions that would strengthen the National Labor Relations Board. Meanwhile, the Board was pushing ahead with its crowded calendars. That same month it handed down a decision against Montgomery Ward & Company.[1]

The facts in the case dated back almost two years. The AFL's International Longshoremen's Association had been organizing the Portland warehouses of the company and was making progress. A few days after Franklin Roosevelt's second-term election, J. D. Bullock, the company's local assistant manager, had called the employees together in groups. "Yesterday and today," he said, "as I have gone through the House and Store I have had a mixed feeling of pleasure and sorrow. Pleasure to be back with you, and sorrow occasioned by the many ugly rumors that have reached me." He had been met with news "that a number of our employees felt they had more to gain by following the leaders of this outside organization than the supervisory forces of this House and Store."

Outlining the company's labor relations policy, he continued: "I heard the rumor that organizers of this outside labor union have promised a union shop or closed shop, hiring hall or preferential hiring to employees. I have explained the Company's personnel policy on the matter of the closed shop, or hiring hall, or preferential hiring. Let me repeat that while any employee may belong or refrain from belonging to a union, we will not, as a company, take the position that all employees must belong to a union. . . . We never have operated and do not intend to operate under a union shop, closed shop or preferential hiring."

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[1] Montgomery Ward & Co., 9 NLRB 538, decided October 29, 1938.

Mr. Bullock had been able to hear the rumors because the company had retained the Burns Detective Agency to place a dozen "operatives" in the plant. Within a few months, 52 employees were discharged, most of them ultimately to be reinstated with back pay on order of the NLRB. Top executives and petty supervisors pitched into the campaign—arguing, cajoling, threatening the workers not to join up. Bullock was quite eloquent in talking to some. "Personally," he told one, "this $2.50 initiation fee and this monthly dues that you pay into the union—with that money I could get myself a good bottle of whiskey and a nice girl and go out to a dance and have a hell of a good time." The cost of living had not yet begun to rise.

In warehouses and stores all over the country, Montgomery Ward workers were beginning to stir. AFL unions, like the Retail Clerks International Protective Association, the Office Employees Union, and the International Longshoremen's Association, were bidding for their membership. Later the CIO put in an appearance; in Kansas City and Chicago the CIO's United Retail, Wholesale and Department Store Employees Union made inroads.

Montgomery Ward's lawyers kept hopping from one regional NLRB office to another. Though the company had manned its personnel department with young lawyers, its legal mainstay was the law firm of Winston, Strawn, and Shaw. Its senior member, Silas H. Strawn, is one of the company's directors, in close touch with its affairs; he has an apartment in the same Lake Shore Drive residence as Avery. Strawn, a former president of the United States Chamber of Commerce, is a prominent Republican and has been closely linked with the "Morgan interests." In 1933 the Senatorial investigation into banking affairs, now remembered largely because a press agent planted a midget on J. P. Morgan's lap during a recess, had listened to testimony involving Strawn as one of a group of prominent citizens who had been given opportunities to buy securities at less-than-market prices. Strawn's name appeared in the company of cabinet members, a former President of the United States, an unsuccessful Democratic candidate for the same office, and leading national committeemen of both political parties.[2] In his case there was certainly no impropriety. He had been very close to Morgan, who had a direct interest in Montgomery Ward and had been the prime mover in getting Avery to take over the mail-order house. Nothing was more natural than that Morgan, Strawn, and Avery should have common ties.

An old man in his seventies, Strawn had seen the battle coming and took up the issue from the very beginning. To him the blue eagle that symbolized participation in the NRA program was a "dodo bird."[3] When the National Industrial Recovery Act was declared unconstitutional, Strawn hailed the Supreme Court's decision as "the best thing that has happened to this country since the administration took hold,"[4] while his friend Avery echoed the sentiment with the statement that "the situation now seems fraught with great encouragement to our economic life."[5] But to the disgust of both men, out of the ashes of the NRA two new birds arose—the National Labor Relations Act and the Wage-Hour Law. As Strawn saw it, the Administration was trying to "Sovietize the country."[6]

When the American Liberty League was organized in 1935, both Avery and Strawn signed up. Strawn's law firm was represented among the 56 leaders of the bar who advised American businessmen to ignore the Wagner Act. "We have no hesitancy," they said, "in concluding that it is unconstitutional." But five justices of the Supreme Court differed, and five were enough to uphold the Act.

Magna charta in hand, the unions set out to organize. Despite the deepest schism it had ever suffered, labor was moving ahead. Against the labor spy, the company union, the violence of the hired thug, the discriminatory discharges, the subtle intimidations, there was now a shield. Even more important, collective bargaining and union recognition—the foundations of labor organization—had become privileges of citizenship, written into the law of the land and enforced by the power of the courts.

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[2] *America in Midpassage* (*Volume III, The Rise of American Civilization*) by Charles A. and Mary R. Beard, The Macmillan Company, New York, 1939, page 158 et seq.

[3] *New York Times,* May 30, 1935.

[4] *New York Times,* May 28, 1935.

[5] Ibid.

[6] *New York Times,* May 1, 1935.

Once labor disputes meant long months of striking, physical battle, mounting worries as strike funds dwindled. In those days the impersonal term *strike* concealed the deepest of personal sorrows: the need for groceries, rent, fuel, doctor's bills. And after it was all over, there might well be the shamefaced return to work, without a union agreement. Now employers had to bargain with the union representing a majority of the workers. True, there was no compulsion to sign a union contract, but the employer had the duty to come forward with counterproposals in good faith. Labor had taken a long step forward, and it did not mean to retreat.

By the time Hitler stepped across the Polish border, management in America had become familiar with the Wagner Act. Business was making efforts to operate within the framework of the law, though it was not yet reconciled to it. Reporting on its fourth year of activity, ending June 30, 1939, the National Labor Relations Board told Congress that the number of organizational strikes had decreased by about a third, as compared with the preceding year. The Board was spending less time on "unfair labor practice cases"—charges of anti-union discrimination, interference with unionization, refusals to bargain—and more time on the conduct of elections to select the union representatives of the workers in appropriate units. To be sure, the Board's activities for the year included the handling of 4,230 unfair labor cases, involving 444,106 workers. As a result of those cases, 923 unions won recognition from their employers; 635 union contracts were written; 134 oral agreements were made; and 903 employers, on order of the Board, had posted prominent notices pledging themselves to obey the Act and refrain from unfair practices. The Board effected the reinstatement of 7,738 discriminatorily discharged workers, and for 3,063 of them it collected more than a half-million dollars in back pay. And while that was being done, the Board had provided machinery to more than a half-million workers in

2,339 separate proceedings for the selection of union representatives. Organized labor on the eve of war in Europe was doing well.

J. Warren Madden, chairman of the Board, issued a self-congratulatory statement summing up the report and suggested that "the area of strife is narrowing to that where organized industry and organized workers do not exercise economic pressure on each other except over issues of wages, hours and shop conditions. And even in that field, where democracy demands that neither side be subjected to compulsion by a third party, great hope for peace lies in the development of written contracts and the increasing sense of responsibility which comes with open negotiations."

Democracy demands that neither side be subjected to compulsion by a third party, said Madden. But war makes other demands, and war had already begun in Europe before the report had been read by many Congressmen. Compulsion was on the way, and only peace could stop it. Just as surely as compulsion was on the way to tell industry what to make and how to make it, government was virtually going to determine whom industry might employ and how. And it was going to tell labor what it could ask for and what it couldn't get. But that was months away. Still ringing in the ears of the American people were the words of the President: "I hope the United States will keep out of this war. I believe that it will. . . . As long as it remains within my power to prevent it, there will be no blackout of peace in the United States."

For a brief spell business stopped worrying about unions. On October 24, 1939, the minimum wage under the Wage-Hour Law went up automatically from 25 cents an hour to 30—with overtime at time and a half for all work done after 42 hours. Sewell Avery, who was obviously in interstate commerce and subject to the law, went to bat. He refused to open his books when the government inspectors called at the Kansas City branch. Unsuccessfully his lawyers challenged the Wage-Hour Administrator's right to subpoena payroll records. A federal district court unhesitatingly ruled that the law was constitutional, that Congress had the right to compel employers to keep such records, and that the Administrator had the power, whenever he thought necessary, to require their production. Avery appealed, and lost again in the circuit court. Not satisfied, he went to the Supreme Court, but the nine judges refused to consider the case at all.[7]

Attention shifted back to labor relations. The House had appointed a special committee, under Howard Smith, to investigate the National Labor Relations Board. A previous Senatorial investigation, conducted by Senator Edward R. Burke, had taken testimony for only three days and quit, its chairman explaining that there was no sense wasting time on witnesses since everybody knew the Board was unfair. The House Committee, however, spent ten months accumulating volumes of testimony, but it was not until a half-year after the English had withdrawn to their island from the beaches of Dunkirk that the Committee was ready to report. It concluded that the Board was unfair, biased, pro-CIO, radical. It charged that the NLRB's activities had induced strikes, that its interpretations of the Wagner Act were distortions of Congressional intent, that the Board had broadened the definition of interstate commerce beyond the proper boundaries. It suggested remedial legislation, but before the debate was concluded, labor had won another judicial victory: in February, 1941, the Supreme Court formally upheld the Wage-Hour Law and America's wage structure was in for permanent change.[8]

The Court was also sustaining the NLRB's views, case by case. The Board's seeming weakness had turned out to be its strength—it had no power to enforce decisions; only the courts could do that, and they were doing it. NLRB could tell employers to "cease and desist," but it was up to the courts to punish for contempt. Some circuit courts tried to close their doors to the NLRB whenever it sued for an enforcement order, and certain states seemed to be fenced off from the Board's jurisdiction—Pennsylvania and New Jersey, for example. In its 1937–8 term, the Third Circuit Court of Appeals, covering that area, had stonily rejected the Board's pleas in 16 cases. All the decisions were reversed by the Supreme Court in favor of the Board.

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[7] Fleming v. Montgomery Ward & Co., CCA–7, 114 F. (2d) 384, decided July 18, 1940; cert. denied, 311 U.S. 690, October 28, 1940.

[8] United States v. Darby Lumber Co., 312 U.S. 100, decided February 17, 1941.

The NLRB's triumphs in the High Court stayed the Congressional axe. Since the Act itself and the Board's interpretations were being judicially sustained, the next step was an attack on the Board's personnel. The Dies Committee, appointed to investigate subversive activities, was going full blast, and its revelations had not yet become monotonous exposés of tenuous links between liberals and Communist front organizations. It had spotted supporters of Loyalist Spain among Board employees, some members of the American League Against War and Fascism, and individuals who were undoubtedly members of the Communist Party. But it was too busy to do much more than linger for a moment over their names, for its objective was not so much to root them out as to cripple the Board's machinery.

Though Smith failed to put through his bill emasculating the Act, Representative Martin Dies finally scored a Congressional victory against the Board. He descended on its chief economist, David J. Saposs, a labor expert who had made two serious mistakes in his life. First, he had allowed himself to be born in Russia—a condition which his activities in the U.S. Commission on Industrial Relations, the New York Department of Labor, the Inter-Church World Movement, and the American Economic Association, could not correct. Second, he had written a book called *Left Wing Unionism.* The fact that it was an unreserved attack on Communist labor practices was not considered sufficiently impressive to counterbalance its ominous title. By act of Congress, Saposs was removed from his post and the Board's economic division dissolved. Some time later, Martin Dies chanced to read Saposs's book and apologized. But that didn't stop Dies from repeating his charges when Saposs turned up again in the war labor agencies.

The plaints of businessmen and the needling in Congressional committee meetings did not change the law, but Board personnel couldn't survive. Before long, the men who had introduced and guided the administration of the Wagner Act were ushered off the scene. J. Warren Madden, Edwin S. Smith, and Donald Wakefield Smith retired to less hectic pursuits. Inevitably, there was some shift in emphasis. The opponents of the Board had argued that its members were writing their own labor sympathies into their interpretations of the Act. That was true. Now the new Board members, functioning in a war atmosphere, began to introduce some relaxation of the pressure on employers.

There was more concern, for example, with protecting the employer's right to discipline employees. Five decisions handed down in one day, August 26, 1941, showed the trend. In one case, the Board sanctioned the discharge of a minority union leader who had continued union agitation after an NLRB election to the point where it hurt production.[9] When an employer fired members of a union committee because they had interfered with the operation of a mine and had misconducted themselves on a picket line, the Board upheld him.[10] In another case, it refused to order the reinstatement of union employees, who, disregarding their own leaders, had presented wage demands to their employer even though there was already a collective bargaining agreement.[11] In still another case, the refusal of employees to work because the company would not employ additional help to lighten their burdens was treated as insubordination and a proper ground for discharge.[12] A Board decision clearly told employers that they could require supervisory employees to resign from their jobs or leave a union of nonsupervisory workers if membership interfered with loyalty to management.[13]

These were slight straws, rather than an indication of a major shift in the wind. They involved no substantial reversal in the enforcement of free collective bargaining. On only one important point had the Board really backed down: it permitted management to petition for elections when rival union federations were competing for the bargaining right.[14] This was a partial victory for the Smith Committee, which had fought to allow employers to petition for elections under any circumstances, a proposal that labor fought vigorously lest employers be permitted to call for elections before an organization campaign had been completed.

[9] Motor Products Corp., 34 NLRB 1236.

[10] Weirton Coal Co., 34 NLRB 1255.

[11] International Envelope Corp., 34 NLRB 1277.

[12] Ohio Calcium Co., 34 NLRB 917.

[13] General Motors Sales Corp., 34 NLRB 1052.

[14] Article III, Sec. 1, Rules and Regulations of the National Labor Relations Board, Series 2, as amended, effective July 14, 1939.

Hopefully businessmen viewed these decisions as the beginning of the ebb tide. They were wrong. Far from being evidence of retreat, the NLRB rulings merely indicated that the Board was settling down after a period of groping, sometimes grasping, enthusiasm.

In July, 1940, the Wagner Act celebrated its fifth birthday, while organized labor was congratulating itself on the acquisition of four million new members during the life of the law. The Board's anniversary got little attention, for Congress was studying a peacetime conscription law, the President had just asked for another five billion dollars for defense, and Hitler had delivered what he called "an appeal to reason" speech: "Churchill ought for once to believe me when I prophesy that a great empire will be destroyed—an empire which it was never my intention to destroy or even harm. . . . This struggle, if it continues, can end only in the complete annihilation of one of the two adversaries. Churchill may believe it will be Germany. I know it will be Britain." America was thinking of the war abroad. A presidential campaign was under way, with little to divide the candidates except the issue of who was better qualified personally to guide his countrymen through the hazards of the hour.

Among the defense planners there was already considerable thought about labor's part in a military effort. NLRB members, meanwhile, were delivering eloquent addresses reminding the country that the labor picture was bright because collective bargaining could maintain peaceful relations between management and labor. Like all who are involved in a specialized function, they were inclined to exaggerate their own usefulness in meeting new problems. The chairman of the NLRB was saying that collective bargaining "has been accepted by the great majority of employers who in 1935 rejected and fought it." He told the 1940 convention of the International Ladies Garment Workers that the American people could "face whatever lies ahead in confidence." Apparently he did not realize that the whole focus of government intervention in labor relations was about to change; that a new labor agency would take precedence as the *bête noire* of business, and that this substitution would be the ultimate salvation of the NLRB.

The President's "arsenal of democracy" program got started after the summer of 1940. Slowly the wheels began to turn and the absorption of the unemployed in industry began.[15] The American Federation of Labor estimated that there were ten million idle; government economists, about seven or eight million. To the job-hungry the prospects were bright, but work did not come fast. As late as March, 1941, according to the National Industrial Conference Board, there were still 7,600,000 jobless. William S. Knudsen, as head of the Office of Production Management, guessed that defense work would take up an additional three million men; since September, 1940, two million had already obtained posts supplying lend-lease to Britain.

But the demand for labor did not mean a corresponding increase in total employment because there was a shortage of qualified workers. Nondefense industries were beginning to curtail their operations, and labor unions were talking about what they called "p.u."—an onomatopoetic abbreviation for "priorities unemployment." Defense officials were watching the employment index as if it were a fever chart. In that same month of March, 1941, while some industries were begging for workers with certain skills, a million men were asking to be put on WPA rolls. On March 23, the *New York Times* reported that "more jobless men than ever before [were] hunting work in areas which have large defense orders."

Boomtown confusion was the order of the day. The mad rush of the government to get defense work going and the placidity of business in accepting military orders made a checkered pattern. About 75 percent of the defense contracts placed in 1940 were in 20 industrial areas, containing only 22 percent of the nation's population and 19 percent of that new industrial breed, WPA workers. In Radford, Virginia, for example, a new powder plant was built with a peak workforce of 9,000; yet many WPA workers could not be absorbed. At Hampton Roads, a billion dollars' worth of shipbuilding contracts were let, and the demand for skilled workers was keen. Sixty thousand persons swarmed into the area faster than they could be hired. Many of them were unskilled and created an unemployment problem in the midst of labor shortage. Pittsburgh steel mills were running at 99 percent of capacity during 1940, but employment was only four percent higher than in 1939. One reason for the general employment muddle was the economic fact that every time business looks good, from two to five million persons who wouldn't think of working in dull times enter the labor market.

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[15] Data on employment taken from *Defense and Economic Dislocation: An Analysis prepared for the public and private agencies and municipal governments concerned with the problem of priorities unemployment* by the Research Institute of America, New York, 1941.

The transition from a peace- to a war-time economy put hardships on many workers and their families, but labor, almost unanimous for the Administration's foreign policy, went along with the economic program of preparedness. The Truman Committee investigating the defense program gave high praise to the unions when it reported: "Labor has fought for curtailment and conversion despite the fact that in many cases limitation orders have resulted in severe and prolongated unemployment for thousands of union members."[16]

For a while the prospect was gloomy. Leon Henderson, as head of the Office of Price Administration and Civilian Supply, told a Congressional committee in August, 1941, that an increase of two million in the unemployment lists should be anticipated. The blow did fall. Hardest hit were the one-industry towns, particularly those depending for their livelihood on washing machines, refrigerators, metal office furniture, electrical appliances, aluminum ware. In September a group of Midwestern mayors met in Chicago to work out relief measures for their stricken cities. The situation looked so bad during the next six months that the government officially classified 32 communities as distressed areas. This was conversion unemployment —the pause before the production race really got going.

Against this background of unemployment a new note was being struck. In the name of increased production, a demand was being made for the repeal of the Wage-Hour Law. A new deadline laid down in the statute had descended on industry. On October 24, 1940, employers had to begin paying their employees time and a half after 40 hours of work instead of after 42. Some businessmen thought the defense program would erase the provision, but the law had been passed in June, 1938, and the "fair labor standards" had been fixed on the escalator principle without taking into account the possibility of war.

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[16] Special Committee Investigating the National Defense Program, pursuant to S. Res. 71 (77th Congress), Second Annual Report, Report 480, Part 9, page 109.

The effects were now being felt. By and large, industry complied, for the penalties were far more burdensome than in the case of the Wagner Act. Goods could be barred from passing in interstate commerce, injunctions could be obtained against offending employers, fine and imprisonment could be invoked, and in addition the employee could sue for twice the amount that was due. Flouting the law was much too expensive.

But the defense atmosphere seemed right for revising labor laws, primarily those governing hours of work. The Walsh-Healey Act, very similar to the Wage-Hour Law, but applying only to government contracts, provided that time and a half was to be paid for any hours over eight during any given day. Now more businessmen were taking on government work or were engaged in subcontracting; the Army and Navy were placing war orders to the hilt of industry's capacity; war plants were being built all over the country. Knudsen was complaining of "the week-end blackout" in American industry that took place every Friday night to Monday morning.[17] Colonel Philip Fleming, the Wage-Hour Administrator, was urging industry to put its operations on a 160-hour basis[18]—later Donald Nelson raised it to 168[19]—to meet defense requirements. At time and a half for overtime, of course!

Industry insisted that overtime costs were too high and demanded suspension of the Wage-Hour Law. Some labor spokesmen retorted clumsily that government, not business, was paying the cost; but business as taxpayer was no less pained. The *Journal of Commerce* said editorially: "It has now been amply demonstrated that a large portion of the unemployed cannot be used in defense industries, while the growing shortage of skilled labor is making necessary a rapid lengthening of the work week in defense industries." It asserted that production was being held up by "punitive overtime payments."[20]

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[17] *New York Times,* January 12, 1941.

[18] *Journal of Commerce,* December 21, 1940.

[19] *New York Times,* March 4, 1942.

[20] *Journal of Commerce,* April 3, 1941.

It was not at all uncommon in some business circles to hear executives complain that the Wage-Hour Law prohibited work after 40 hours. A Southern college professor who wrote that the Law did not force workers to knock off at the end of the 40 hours but merely required employers to pay time and a half for the additional hours, lost his job. But the objection that time and a half was a penalty imposed on employers for continuing to run their plants beyond 40 hours a week was a realistic one. Business pointed out that when the Law was passed the President stated it was intended to spread the work and thus help solve the national employment difficulties. If an employer had to keep his plant running overtime, let him hire more workers, and if he refused, let him pay the penalty of higher wages for the excess hours. Now, they said, there was a shortage of skilled labor and the employer had no choice but to keep the available men working longer hours. "The employer," declared the *New York Times* on February 16, 1941, "was forced [by law] to pay a penalty of 50 percent for maintaining longer hours when that was considered unpatriotic. He is now forced to pay a penalty of 50 percent on longer hours even when the Government urges him for patriotic reasons to extend those hours."

Congressman Howard W. Smith of West Virginia introduced legislation to suspend all overtime laws. But America was in the war before the issue took form as an amendment to the War Powers Bill. One after another, government defense officials filed before Congressional committees, warning that Smith's legislation, including no-strike and anti-closed-shop laws, would endanger the defense program. "There is no need for legislation at this time," said Donald Nelson, head of the War Production Board, on March 19, 1942. Speaking of Smith's proposed crack-down on labor, Undersecretary of War Robert P. Patterson said the same day: "It would not increase production and it might retard it."

But on the floor there were angry speeches:

"If there is an insurrectionist spirit in American labor, for God's sake let us find it out now and meet it before it is too late. Let us see if this Congress functions or if the labor leaders are going to lead this country. . . ."

"It is the inherent and inalienable right of American citizens to work at any lawful occupation without being required to maintain membership in or pay tribute to any person, association or organization. . . ."

"We are already living under a labor government rapidly headed for a labor dictatorship, which, if not checked, will soon run into a labor despotism. . . ."

"Coddling of extremists . . ."

"Racketeers in labor's ranks . . ."

"Sabotaging of the war effort . . ."

"Work or fight . . ."

Congressional mail was growing heavier with each delivery, some members estimating it at 100,000 pieces in just a few days. One Congressman asked leave to insert his week-end correspondence, 4,000 letters, in the Congressional Record; another said his mail had included more than 13,000. Public opinion was aroused in that peculiar way in which only American sentiment can be stirred; the mere juxtaposition of headlines in the newspapers was enough to start a wave of reactions. The fact of strikes, coming at the same time as the workweek was under discussion, brought a merger of the protests, though the *New York Times* reported on March 17 that "it was not so much labor disturbances as the forty-hour week" that had inspired the correspondence.

But there was no action. Congress waited for the President's lead. Despite the discontent, the labor laws stood unscathed. America at war was not discarding the Wagner Act, the Wage-Hour Law, or the Walsh-Healey Act.

True, labor was on the defensive, but holding up well under the assaults. For a brief moment in the early days of the defense program, the unions had attempted to take the offensive, demanding that Army procurement agencies deny government contracts to companies that refused to obey the Wagner Act. The issue had first come up with the award of contracts to Bethlehem Steel, and Sidney Hillman, labor's representative in the National Defense Advisory Commission, was put under pressure to fight against any grant of government work to a corporation violating the Wagner Act. For a while the War Department actually did deny the Ford Company a contract for Army trucks because it refused to accept a clause requiring conformity to the Wagner Act. But that was not crystallized policy.[21]

Defense Commissioner Knudsen, addressing the National Association of Manufacturers on December 13, 1940, had declared flatly: "Congress has not directed that all or any part of these other acts [Sherman Act, Clayton Act, National Labor Relations Act] be written into government contracts." He was talking sound law when he argued that precisely because Congress had made the Walsh-Healey Act mandatory for government contracts, there was no reason to believe that Congress intended to apply the other acts to defense orders. It was sound war production economics, too, as became evident when military shortages began to pile up. Labor's offensive was a dud.

In the clash between labor and management, the score, so far, was a draw. No conflict had yet arisen between government and labor—that would come only with the accumulation of wartime stresses. But between government and industry, a bitter controversy was already being resolved.

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[21] *Wall Street Journal,* February 1, 1941.

CHAPTER III

BUSINESS IN UNIFORM—GOVERNMENT CONTROL

IF EVER this country should be swallowed by an earthquake, our mail-order catalogs deserve to survive for the archeologist of the future. In the annual issues of Montgomery Ward, we have an index to the living habits of the people—everything from *ABDG Capsules and Tablets* to *Zircon Rings, Zonite and Zotox.* In between are overalls, manure-proof shoes, teething rings, Oriental rugs, and so on.

To supply those goods, Avery has to stand at the hub of our economic life, reaching out into every area of America's production. His articles demand raw materials and depend on the copper mines, steel mills, aluminum refineries, logging camps, cotton fields. The manufacturers must keep him stocked with dishes, auto accessories, monkey wrenches, refrigerators, brassieres, milk-pails, wrist watches. The coal digger, the railroad engineer, the postal clerk, the author, and the artist work for him. Almost every branch of America's breadwinning activities is a part of his business.

He has demonstrated real genius in revitalizing the affairs of Wards, which were sinking when he took it over. No poor lad when he started, he proved himself a master of tradesmanship. Going to work in one of his father's companies, the Western Plaster Works, he watched the enterprise merge with the United States Gypsum Company, moved up from sales manager to president of the company, and made its position solid. As his price for going to Wards, he demanded and got a salary of $100,000 a year with an option to buy 100,000 shares at $11 apiece. When the GI's carried him out, that stock was easily worth four million dollars. If he is loyal to the philosophy of free enterprise, his emotion is one of honest gratitude. He is defending a system that gave him every opportunity to use his talents, his toughness, and his powers of leadership. If he got into a fight with his government, it was because he saw his benefactor, and the potential benefactor of others like him, threatened, its traditions trampled upon and its prerogatives suspended.

For World War II was hardly a war waged by individualists. Whatever the nature of the economy under which the miracle of U.S. war production was achieved, it was certainly not traditional free enterprise. The cornerstone of that orthodox system has always been the Averys, the private entrepreneurs who assumed risks, assembled the factors of production, arranged for distribution—all on the basis of what they thought the market wanted. But a war-winning economy in the twentieth century doesn't allow the private businessman to decide what raw materials he will buy, what labor he will hire, what wages he will pay, what goods he will manufacture, to whom he will sell his products, and what price he will get for them. It doesn't permit the distributor to shop around freely for a supplier, or collar whatever customer passes his door.

In addition, the government set itself up in business. A single statistic sums up the atmosphere in which Avery and his fellow free-enterprisers now had to live. To achieve the enormous wartime production, the United States Government was investing more than three times as much capital as private industry during the same period. The government didn't do this because it wanted to. It didn't want to; it had to.

Before the war began, Army and Navy planners had given American enterprise a careful checkup to determine whether it was capable of waging total war. Their conclusion, implicit in *The Industrial Mobilization Plan, Revision of 1939,* was that freedom would have to be stripped from enterprise if production were to meet the needs of the military and also satisfy the basic requirements of the home front. It was clear that America, despite its great resources, did not have sufficient plant equipment and facilities; nor had it, despite great numbers of unemployed, maintained a large enough staff of skilled workers. Only a whole series of government controls, spelling out a national plan, could be effective. In working out those controls, the industrial mobilizers hoped that it would be possible merely to suspend the operations of free enterprise for the duration, substituting a temporary planned economy. After the war Mr. Avery could go back to business as usual, placing his orders where he wished.

The tremendous flow of war materiel to the battlefronts was accomplished by two methods: conversion of peacetime facilities to war production, and the construction of new facilities. No one liked it. The record shows a clearly defined evolution from wheedling to compulsion in the effort to get industry to stop producing items for Mr. Avery's consumers and to turn out war goods. And the compulsion, quite frequently, had to be exerted on government administrators as well as the private entrepreneurs.

The story begins early in 1940, when the government first asked for more production. It was then that the President called for his 50,000 planes a year. Industry insisted almost unanimously that the goal was utopian, but 100,000 planes came out of the plants in one year. The general attitude of business toward the national production objective was: "It can't be done." But even Mr. Avery—for example, through the Hummer Manufacturing Division of Montgomery Ward—found himself contributing to the accomplishment of those goals.

In the beginning the government tried to cajole industry into converting from civilian to military production. But so long as peacetime goods could profitably be made, business was reluctant to change over. Industry did not want to disturb its established customer relationships. Patriotic impulses were restrained by fear of the competitor who might not convert, who might corner the peacetime market and win permanent dominance in the field. Wards could hardly be blamed if it wanted its manufacturing plants to continue supplying the items in its Winter catalog of 1940.

Most notorious holdback was the automobile industry. The car manufacturers claimed their machinery could not be used to manufacture aircraft and that it would take "some ten to twelve months" to retool for plane production.[1] The Associated Press sent out of Washington a detailed list of technical objections raised by "defense experts who declined to be quoted by name."[2] But Walter Reuther, vice-president of the CIO United

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[1] *Journal of Commerce,* March 17, 1941.

[2] *New York Times,* January 2, 1941.

Automobile Workers, argued that the job could be done more speedily.

While government officials politely urged the auto manufacturers to convert, the industry was proceeding full speed with its own program of peacetime production. In 1941, when shortages, particularly of machine tools, were blocking the defense program, the highest level of car production since 1929 was reached. "The automobile industry alone," said the Truman Committee, "had thousands of [needed machine] tools, and could be of the utmost assistance in the defense program. But, instead of requiring the utilization of such tools for the defense program, further announcements were made to the effect that automobile plants could not produce tanks and airplanes, and that it was advisable and necessary to build new plants for that purpose."[3]

What made the situation critical, as the Committee saw it, was the fact that "the automobile industry is one of the principal users of a large number of strategic materials." In 1939, car manufacture had taken 80 percent of the nation's rubber, 11 percent of the tin, 23 percent of the nickel, 14 percent of the copper, 18 percent of the steel, 12 percent of the zinc, 34 percent of the lead, 10 percent of the aluminum. In all of these the nation was already short, with war production requirements growing. Yet in 1941 the industry had produced a million more cars than in 1939, using even larger amounts of these disappearing strategic materials.[4]

According to the Truman Committee, the Big Three—General Motors, Ford, and Chrysler—had "scarcely even started to produce defense articles." The measure of their conversion to war production in more than two years from September, 1939, to the end of 1941 was a bare 266 million dollars of government orders. And Wards, like every other distributor, went on selling auto accessories, using the precious metals for which the war machine hungered. So long as its competitors were free to sell, why shouldn't it?

Industry's resistance to conversion was echoed within government itself. The Office of Production Management was manned largely by representatives of business who were themselves subject to its motivations. The Army, too, had drawn on the same reservoir for executive manpower and reflected similar attitudes.

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[3] Special Committee Investigating the National Defense Program, pursuant to S. Res. 71, 77th Congress, 2nd Session, Report No. 480, Part 5, page 31.

[4] Ibid., pages 32–3.

For instance, there was Albert J. Browning, who had spent four years with Wards but had left in 1938 after disagreeing with Avery on policy, as had many others. "If anybody ventures to differ with me," says Avery, "I throw them out of the window." In 1940, Browning gave his services to the National Defense Advisory Commission as assistant co-ordinator of purchases, and later as adviser to Donald Nelson, his old competitor from Sears, Roebuck, in the succession of defense agencies: the Office of Production Management, the Supply Priorities and Allocations Board, and the War Production Board. Then, with the rank of Brigadier General, Browning became assistant to Lieutenant General Brehon Somervell in the Army Service Forces. Another Ward man who couldn't see things Avery's way and ultimately found himself in Naval procurement was Frank M. Folsom.

Such men in government service were hardly enemies of free enterprise, but circumstances eventually forced their hand. Pearl Harbor showed that the party was going to be rough, and freedom in the automobile industry came to an end in January, 1942. To compel conversion, the government issued a formal prohibition on the manufacture of civilian cars. The industry was told that it could no longer make the products it wanted to. Stripped of that freedom, it had no choice. When a reporter for the *Washington Post* asked William Knudsen, head of the OPM and a leader in the auto industry, whether more conversion was now possible, he answered: "Of course, now that there is nothing else to do."[5] But even after the limitation order, the manufacturers were given special dispensations to use scarce materials for some 200,000 cars.

The automobile industry was not alone, though it was the most important, in refusing to convert. The whole field of consumer durable goods production continued to eat up critical materials badly needed for military items. The delay in conversion was most serious in the case of radios and refrigerators which absorbed important supplies. Though a "natural for conversion," as the War Department expressed it, the typewriter industry hung back until March, 1942, when the government stepped in with limitation orders. Meanwhile the Ward catalog for the Fall and Winter of 1941–2 featured radios weighing from six to 150 pounds, refrigerators with "storage space for every need" and Underwood typewriters with "sealed action streamlined frame."

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[5] *Washington Post,* January 6, 1942.

When compulsory conversion came, it suspended free enterprise. As the system of material allocations progressed, government agencies became the source of supply, and without a priority rating business transactions could not be completed. In the drive to get maximum production, the government established strict controls over the processes most crucial to the freedom of free enterprise. This done, production began to rise.

Free enterprise not only resisted conversion, but also opposed the necessary plant expansion. Business was afraid it would not be able to use the added capacity once peace came. In fact, private industry had already come to the conclusion in 1939 that it was suffering from excess capacity. Beginning in 1940, the government made every effort to induce private enterprise to invest in war plants. Tax amortization privileges were held out as bait. In many instances, industry merely stood pat while the government virtually gave it new plants.[6] Yet it held back, dominated by the dread of excess capacity after the war.

By the end of 1940, free enterprise had done so little converting that plant expansion became inevitable. *Barron's*, the financial weekly, reported in its issue of December 23 that President Roosevelt and his advisers had decided on "vigorous plant expansion," but that businessmen "looked askance at their plant expansion proposals." It added that "a decision by the President to force expansion of basic industrial production, by government competition, if necessary, would cause businessmen on the [National Defense Advisory] Commission staff to lose interest" and that "businessmen are beginning to drift away from the NDAC."

Most significant, however, was *Barron's* statement that Edward Stettinius's Priorities Division in the Commission "has practically forbidden its members to discuss the steel expansion problem publicly." Steel, the citadel of free enterprise, became the ground on which free enterprise prepared for a finish fight.

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[6] Special Committee, etc., Report No. 480, Part 3, pages 2–3.

Steel is the bone and muscle of modern war, and early in the defense program government economists had expressed fears over the ability of America's existing plant to produce enough of it. *The Iron Age,* organ of the Iron and Steel Institute, labeled the suggestion for expanding steel capacity a socialist plot against free enterprise. On January 12, 1941, the *New York Times* reported: "Responsible leaders of the steel industry are beginning to show open resentment over the continued flow from Washington of anonymous statements that the industry may not be able to supply all the steel required for national defense or for war." Editorially, the *Times* cited "the steel trade's general judgment that its present capacity for production is adequate for all requirements." A month later the *Times* declared with satisfaction: "The announcement yesterday by President Roosevelt that the steelmaking capacity of the country has been surveyed and found ample to meet the requirements which will be made upon it is welcome news in more than one respect." [7]

But the *Times* and the President were both wrong. Items began to disappear from the mail-order catalogs as a result of the "steel blackout" of May, 1942: auto jacks, lawn sprinklers, electric irons, hair curlers, urinals, cash boxes, cooking stoves, butter knives. The farmer could not replace his plow by simply filling out a Montgomery Ward order blank, and his wife postponed indefinitely her hopes for stainless steel cookware. Alarm clocks became scarce, as America's war workers went on all shifts.

The President had mistakenly relied on the optimistic report of a specially designated expert, Gano Dunn. Now a program of steel expansion became inevitable.

The steel industry had revealed that it either didn't know its business or didn't want to know. For years it had operated on the assumption that it was overequipped. Its annual output rarely exceeded 75 percent of its capacity, the average being nearer 60 percent. It had long since abandoned, if it had ever held, any idea of expansion. In 1937, the National Resources

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[7] *New York Times,* January 30, and March 1, 1941.

Committee had criticized the American steel industry for failing to keep up with technological advances. A detailed report listed a number of improvements that the industry ignored "largely because of its vast investments in other processes." Even after the country was at war, the Truman Committee complained that the steel companies refused to adopt the new techniques that were available to increase quantity and improve the quality of output.[8]

The Truman Committee pinned responsibility for much of the delay in war production on "the desire of the big steel companies to prevent any expansion that might react unfavorably against their control of the steel industry after the war. They feared both the possibility of having excess capacities of steel-making facilities after the war and the competition of smaller companies which might gain strength during the war program."[9] Through the years, the big companies have followed a policy of buying up their smaller rivals and dismantling or junking the equipment in order to reduce competition.

In the end, of course, the government eliminated free enterprise in steel, too. For the most part it was done slowly and reluctantly because the whole steel program was placed in the hands of an industry committee dominated by representatives of the five largest steel companies. But government priorities soon prevented civilian manufacturers from getting their hands on supplies of steel and turning out the products that Mr. Avery's customers were wont to buy. The Controlled Materials Plan integrated a system of production directives which, for all practical purposes, ended free enterprise in the manufacture and distribution of steel, and the mills received specific instructions as to the type of steel they were to turn out.

The government's Defense Plant Corporation poured more than a billion dollars into steel expansion, twice the amount that the industry was willing to invest itself during the war and ten percent of the total productive capacity. Well aware of their own deficiencies, the steel companies went along but only on terms that would protect their postwar interests. In effect, they withheld their own funds and compelled the government to build facilities for them.

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[8] Special Committee, etc., Second Annual Report, Report No. 10, Part 4, page 201.

[9] Ibid., page 196.

The negotiations between the Defense Plant Corporation and the Bethlehem Steel Corporation are a case in point. The general counsel of the DPC officially reported that "either Bethlehem did not desire to expand and had therefore submitted a proposal which it believed would be rejected, or that Bethlehem was using the defense program to obtain, at government expense, modern facilities which would have a material value in peacetime operations."[10] At that time Bethlehem already held more than a billion and a half dollars' worth of government orders and was clearly in a position to finance at least some of the expansion.

In commodity after commodity the same story was repeated, in some cases colored by the existence of absolute monopoly. One of the ironies of the free enterprise system is that, left free, it tends to eliminate free competition and to create monopoly in manufacture and distribution. America entered the defense period to find that some of the most war-important metals were in the hands of monopolists who had willfully restricted the nation's productive capacity. In some cases they had even made cartel agreements with German companies to limit America's supply, and the Nazi government didn't overlook these agreements in waging economic warfare.

This was true in the case of aluminum, magnesium, and synthetic rubber, all of them military essentials. The companies had entered into profitable agreements splitting up the world markets but allowing Germany to increase her production while American output was limited. Their attitude was exemplified by the head of the Dow Chemical Company: "You have to justify your investment."[11]

As in the case of steel, the light metals producers sought to prevent government expansion of facilities. The Aluminum Company of America apparently had no difficulty in persuading government officials that an aluminum shortage was inconceivable. "How they expected to take care of the situation when the shortage would become apparent is not clear," said the Truman Committee. "They may have reasoned that in its desperation the Government would do almost anything to increase the supply and that Alcoa would be favorably treated. . . ."[12]

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[10] Special Committee, etc., Report No. 480, Part 5, page 28.

[11] Special Committee, etc., Report No. 10, Part 17, page 9.

The government's course in aluminum was the same as in steel. At first it listened to the assurances of the free enterprisers. The OPM even went so far as to characterize talk of shortage as unpatriotic.[13] In December, 1940, Director of Priorities Stettinius denounced a report by an aircraft company that it was laying off workers for lack of aluminum; but two months later he issued the first priority order, M-1 on aluminum. Despite the order, it was more than a year before the automobile industry stopped getting aluminum for use in passenger cars.

But finally free enterprise in aluminum distribution was doomed. The bottleneck was opened up by the direct expedient of government entry into the field. Before the war Alcoa stood virtually alone in aluminum production; today it faces a powerful competitor who overshadows it by far, the Government of the United States, whose facilities can turn out more than half of the nation's supply. Perhaps even more important is the government's contribution of electric power, the most expensive cost factor in aluminum production. For the nation's aluminum output at the peak of the war effort, the government furnished 1,042,000 kilowatts of power; private industry only 454,000.

In magnesium, the story is much the same. Output increased a hundredfold since 1940, but largely because the government owned 90 percent of the facilities. A half-billion-dollar government investment in operating facilities and a 15-million-dollar investment in fabricating facilities are the explanation.

Rubber production, too, followed the pattern: failure by business, followed by reluctant but effective government action; reckless use of our limited rubber supply by private enterprise, followed by the imposition of conservation controls; inability of free enterprise itself to crack the shell of cartel agreements, followed by government action to expand production facilities; chaotic market conditions, followed by centralized buying through a government corporation, the Rubber Reserve Company; attempts to restrain production through the control of patents, followed by government action compelling the powerful Standard Oil of New Jersey to release processes for general production.[14] Without the government's investment in synthetic rubber facilities, without its insistence on co-ordinated and co-operative technical research, there could not have been this progress.

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[12] Special Committee, etc., Report No. 480, Part 5, page 202.

[13] Ibid., page 201.

The same was true in aircraft, shipbuilding, tanks, munitions, in copper, lead, zinc, and so on down the line. In almost every case, government investment was necessary before the wheels would turn and high output could be achieved. In every important raw material, government intervention came—to control production, to schedule distribution and allocation, to furnish manpower, to shore up prices when necessary and thus stimulate output. Until the government acted, the index of production fluttered monotonously. It took the lumbering machinery of federal authority—wrapped in red tape, blundering in its planning, awkward in its administration—to raise the index from 109 in 1939 to 239 in 1943.

In this economic setting, Sewell Avery played only a small role. As a distributor, he was made aware of the changing economy by the disappearance of familiar items from his shelves. The war has been hard on many small distributors, but Montgomery Ward was not hurt. Avery told his stockholders in a report on the first six months of 1944: "The company was still unable to obtain delivery of merchandise in sufficient quantities to meet the demand. For this reason, store-wide sales events were temporarily eliminated; the customary mid-winter sale catalog was not issued; the size of the general catalog was reduced and the taking of mail orders by stores and order offices was temporarily restricted. These actions predetermined a sales decline, but overcame the great loss of handling orders which could not be filled."

The same period in the preceding year had been a record-breaker. Now net sales had fallen 6.7 percent—from $284,372,025 to $265,361,882. But profits had increased anyway. Net profit was $7,981,736, equal to $1.39 a share of common stock, as compared with a profit for the same period in 1943 of $7,305,193, $1.26 a share. Less business had not meant smaller profit. Mr. Avery could afford to wage the battle, particularly when the first quarter of 1945 showed a 60 percent increase in profits before taxes as compared with the preceding quarter.[15]

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[14] Special Committee, etc., Second Annual Report, Report No. 10, Part 4, page 48 et seq.

As a producer, too, the war made a difference for Mr. Avery. His manufacturing enterprises were subject to the limitation, conservation, and allocation orders of the government. The Hummer Manufacturing Division of Montgomery Ward, for instance, occupying six square blocks in Springfield, Illinois, and employing about 450 men, was no longer free to purchase steel as and when it wanted to, or to manufacture any kind of farm tools. Avery converted it to the production of carburetors, propellers, and gun mounts for military aircraft while continuing the manufacture of some essential farm machinery. By 1944, 70 percent of its output was war materiel. When the AFL union at Hummer's went out on strike, the company was already closely linked to war output. The resulting tie-up curtailed production at the Bendix Aviation plant.

For labor, too, was standing guard over its vested interest in jobs, wages, and union recognition. If industry lagged in conversion, clinging to its old habits, no one would charge it with sending unarmed men into battle. But if the unions were guilty of business-as-usual, their critics were on the alert.

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[15] *New York Times,* September 21, 1944 and May 29, 1945.

CHAPTER IV

TAKING THE PLEDGE—NO STRIKE!

Public opinion has labeled John L. Lewis and Sewell Avery the two bad boys of the war. Yet a worker seeking to improve his conditions could ask for no bolder leader than Lewis; a stockholder interested in dividends would not care to look beyond Avery.

Lewis and Avery have both been autocrats within their own organizations, have tossed their lieutenants overboard whenever there was disagreement, and yet have held the profound respect of their aides. Both are men of forceful character, reckless of public opinion. Lewis has been the shrewder in his manipulation of circumstances, the more resourceful in his timing; he has known when to delay decision, and good judgment or good fortune has always seen him through. Both have been unyielding enemies of the National War Labor Board.

With or without Lewis, the War Labor Board would have come into existence, but he was the immediate reason for its creation. In 1941, under his leadership, the miners' picks had dug the grave of the Mediation Board. After nailing the coffin tight, Lewis took his place with other labor men and representatives of industry in the conference that begot the War Labor Board. The President had called them together to find ways and means of settling wartime labor disputes without strikes and lockouts or other interruptions of production. Roosevelt had not invited Lewis personally—he had merely asked Philip Murray, president of the CIO, to select representatives for half of the labor team. Still under the shadow of his former chief and anxious to commit Lewis to support of whatever policy emerged, Murray had designated the miners' leader to serve with the CIO group. Similarly, Roosevelt invited the AFL through William Green. For industry, William Batt, of SKF industries, active on the production scene, was asked to pick a group of representatives. Later on, Sewell Avery told the Congressional Committee investigating the seizure of Wards that these men "did not represent anything but themselves" and that their agreement "bound no one."

Nevertheless, out of that conference came the no-strike pledge and the framework of wartime labor relations. Labor believed that its voluntary surrender would head off antistrike legislation. Under the pressure of war it had offered the pledge, but with misgivings. It knew that no matter what kind of machinery emerged with the setting up of the WLB, there were bound to be long administrative delays before decisions would come down. Furthermore, there was no apparent instrument for meeting the day-to-day problems of collective bargaining which call for immediate decision. There are many issues that come up during the life of the contract—interpretations of the agreement, grievances centering on shop conditions, discharges, reassignment of workers to new duties, and so on. These are the time-consuming tasks that management and unions face constantly. And concerning these labor was worried. Once the strike weapon had been put in mothballs for the duration, the unions wondered what would happen as the shop stewards took up run-of-the-mill controversies with the foreman and the personnel office.

Actually, labor came forward with the no-strike pledge because the policy had already been forced on it by public opinion. Ordinarily a union thinks twice before striking; with the defense program under way, public opinion compelled it to think thrice. Even before the no-strike pledge, management was allowing the minor irritations of employees to accumulate. Grievance machinery broke down in many cases or rusted away because the strike threat no longer existed to enforce consideration of grievances. Eventually the issues mounted and strikes came anyway. The no-strike pledge did not, in the end, forestall Congressional action which had been prepared and urged even before Pearl Harbor.

At the outset of 1941, the year of preparedness, Congress was rumbling with antistrike talk. The men who had led the fight against the National Labor Relations Board were convinced that the hour had come and the old antilabor bills were trotted out in new clothes, khaki-colored to suit the occasion. While unemployment was still prevalent, they pictured the closed shop as barring the filling of defense jobs. Philip Murray, of the CIO, in the heavy sentences that characterize much of labor's overstuffed pronouncements, declared: "If foolhardy statesmen believe that they can impose restrictions on working men and women to stop their legitimate efforts to pursue their legal rights, then I say to those so-called statesmen that they are making a great mistake."[1] Members of the NLRB were also watching the debate. William L. Leiserson, expressing fears that employers would take advantage of such a law to effect reductions in working standards, asserted that strikes could be outlawed but not prevented. "A law creating criminals won't help the defense effort."[2]

Some business groups, too, were fearful of what might happen if one-sided pressure were applied to industrial conflict. The Committee on Manufacture of the United States Chamber of Commerce issued an analysis of the issues involved.[3] It pointed out, first of all, that "the interrelation of businesses makes it next to impossible to draw a line between defense and non-defense industries" and concluded that "anti-strike laws will prove ineffective and that they will deny fundamental rights to our citizens." Placing responsibility on management as well as labor in the adjustment of disputes, it urged "all employers to develop plans with their employees designed to promote the amicable and prompt adjustment of labor disputes which may arise." The Committee also gave its appraisal of the current situation: "Nor are we convinced that there is present need for additional federal legislation in the field of industrial relations. In particular, we refer to legislation of the 'anti-strike' variety. Despite the occurrence of isolated instances of labor disagreements which appear to have received undue prominence in the press there is every evidence of an increasing determination on the part of both management and workers to develop voluntary methods for the adjustment of labor difficulties and thus to prevent production stoppage. According to recent estimates, such voluntary methods will probably prove effective in 99 percent of the defense industries."

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[1] *New York Times,* January 10, 1941.

[2] *New York Times,* January 11, 1941.

[3] *New York Times,* January 29, 1941.

But Congress was as agitated as the Chamber of Commerce was dispassionate. William Knudsen, the director of OPM, though an industrialist himself, met personal hostility when he appeared on February 19 before the House Judiciary Committee to oppose strike legislation. Republican Representative Earl C. Michener of Michigan taunted the production chief with memories of the labor disputes that had tied up his own automobile company in the turbulent months of 1936. The Congressman described Knudsen as going "hat in hand to the union in Flint to get the plant back," with the result that "the sit-down strike was made a permanent feature of American life." Knudsen defended himself in terms that were hardly to labor's taste. His gray-white mustache bristled as he retorted: "The National Labor Relations Act brought about that strike, and you men in Congress put that law on the books." The following day, his codirector of OPM, Sidney Hillman, took the witness stand and denied that the Wagner Act had had any such effect. A few days later, on February 28, Knudsen took the limelight again by reversing his position on antistrike legislation and urging Congressional action. He let it be understood, too, that he had not discussed the matter with his labor associate.

The floor of Congress crackled with angry talk. Reporting on the attitude of his committee members toward strikers in defense industry, the chairman of the House Judiciary Committee said: "If it is necessary to preserve this country, they would not hesitate for one split second to enact legislation to send them to the electric chair." In the headlines the next morning the conditional clause was not reflected. The *New York Times*, in a two-column, front-page spread, reported on March 28: "Defense Strikes Stir Talk in House of Death Penalty. Sumners Suggests 'Electric Chair' for Foes of Nation 'in Factories or Elsewhere' as Congress' Anger Rises—Labor Draft Urged." Four days later a bill was introduced to make strikes treasonable, providing for 25 years' imprisonment as a minimum penalty, execution as the maximum sentence.

William Green was frightened. He continued to oppose antistrike legislation and in a much-applauded speech at the Philadelphia Rotary Club declared that the Communists were responsible for current labor troubles.

Soon Knudsen was back in line again. Appearing before the House Military Affairs Committee on April 10, he opposed antistrike legislation. He and Secretary of Labor Perkins both agreed that "communism has meant little in strikes." Knudsen was a little murky about just what he thought was happening. "The Communist Party does not exist so far as I am concerned," he said. "I don't recognize communism, but I recognize there are radicals." The public thought otherwise; 78 percent of those polled by Dr. Gallup in April, 1941, said that the Communists were responsible for the defense strikes. The House Military Affairs Committee formally concurred.

Pearl Harbor was now drawing near. Congressional orators were referring to John L. Lewis as a "miserable traitor" for calling a strike in the captive coal mines. Radio forums were preoccupied with the debate over legislation to permit the arming of ships and the sending of vessels into belligerent waters. Casting about for a majority vote on these proposals, the President sent word to the Southern bloc that he would swap antistrike action for amendment of the Neutrality Act. So the *New York Times* reported on November 13.

But history, written by the Japanese, made it unnecessary for him to deliver.

For most unions, the no-strike pledge did not depend on the President's conference of industrialists and union leaders. Immediately on the heels of Pearl Harbor, William Green called a special session of the AFL's executive council. A week after Congress's declaration that a state of war existed, on December 16, the AFL council ordered "that a 'no-strike' policy shall be applied in all war and defense material production industries." The next day a gathering of representatives from all the AFL unions endorsed the statement "most heartily." The AFL had hung its shotgun on the wall.

That the AFL should have been the first to declare peace on the home front was natural, but in a sense ironical. Regarded as the more respectable wing of labor, the AFL was not being constantly raked over the coals as was its rival CIO. Yet in 1941 the AFL had been responsible for more strike calls than its militant rival. In 54 percent of the strikes, the unions involved were affiliated with the AFL; in 37 percent, with the CIO; in the remainder, the unions were independent. But the CIO's strikes had received more attention. Its unions were largely in the mass production industries and its strike calls brought out greater numbers of workers; in fact, the CIO accounted for nearly 70 percent of the nation's 1941 strikers.[4] Its disputes, too, were in industries more directly linked with war production.

Labor was not high in public esteem. In 1940 the lines on the strike graph had gone up fast, recording a growing labor ferment. Almost as many workers laid down their tools in that year as in 1937, the strike peak in the Roosevelt era. The trend continued up in 1941, one worker out of every twelve employed being on strike at some time during the twelve months. Economists explained that strikes are always more frequent with expanding industrial activity and increasing employment, but the public was more interested in the production charts than in explanations of the strike index.

It required no Martin Dies to demonstrate that Communists had been active in the defense strikes of 1940 and 1941 at North American Aviation, Allis Chalmers, Ford, the Northwest lumber camps, and others. In those days the Communists were anti-Ally; it was known that they were in the CIO and that John L. Lewis had been holding hands with them under the table.

Some union leaders tried vainly to turn the tide of public sentiment. Sidney Hillman, serving as Roosevelt's trouble shooter on labor problems, supported the use of troops against the Communist-led strikers at the North American Aviation plant in California. But his action was overshadowed by Lewis's denunciation of the government and the CIO's resolution condemning use of the Army to break peacetime strikes. The average citizen didn't care that Philip Murray, Lewis's successor as head of the CIO, was fuming behind closed doors because of the strike or that the international union removed the strike leaders from their posts. What counted was the fact that the Communists were noisily on the scene.

In March, 1941, government machinery was set up for the peaceful settlement of labor disputes in defense industries. The scholarly Clarence A. Dykstra, but recently departed from the University of Wisconsin's cloistered halls for the more active life of Selective Service director, moved on to the even more turbulent job of guiding the National Defense Mediation Board. The Board had no powers. It could mediate, arbitrate, recommend, cajole, after which it could publish its findings; the rest was up to public opinion. Nevertheless, in three cases where its recommendations were ignored, the Army moved into the plants to keep production going. In all it decided 96 cases, until Nemesis from the coal mines caught up with it.

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[4] *Monthly Labor Review*, May 1942, page 1107 et seq.

Lewis was no longer head of the CIO but he still had the powerful United Mine Workers. In the 1940 campaign, he had promised over a national hookup that he would retire as president of the CIO if its members and the American people rejected his advice and re-elected Roosevelt. The speech was hailed by the Republicans and the Communists. In politics, the sinner is more welcome in the fold than a thousand righteous, particularly if he is thought to control a million votes. The speech did not win the presidency of the United States for Wendell Willkie; it did lose the presidency of the CIO for John Lewis.

Lewis turned to his own union's affairs. When the miners walked out of the pits in April, 1941, they succeeded in wiping out the big wage differentials between the North and South.[5] He had picked the right time, the boom of industrial expansion. The Communists did not object; Russia was still at peace and lend-lease was going only to England and Greece. More important, the CIO stood back of the miners. President Phil Murray was still an officer of the United Mine Workers.

The miners won, and then prepared for another major fight. They had done a thorough organization job in the "captive mines"—those owned directly and operated by the steel companies to fuel their furnaces. The miners demanded the union shop which in coal would have been identical with the closed shop, and asserted that 98 percent of the workers were already members. The National Defense Mediation Board found that to be a fact, but refused to order the union shop. Timing their action well, the miners walked out. The CIO convention was about to meet, and the delegates had no choice, even if some of them were reluctant, but to support the miners. Public opinion, however, was rigidly against the strikers, though it did not go as far as Senator Walter F. George, who said: "The closed shop through government intervention is fascism and the American public will recognize it as such." But the miners had no doubts about the justice of their cause. Hardened by years of public abuse in the course of many strikes, they stood by Lewis's statement, "The fight is only between a labor union and a ruthless corporation." Threatened with reprisals, they put forward the slogan, to be repeated on other occasions, that "you can't mine coal with bayonets." And coal was the essential food in the diet of Mars.

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[5] The "captive mine" dispute is reported in detail in *Men and Coal* by McAlister Coleman, Farrar and Rhinehart, Inc., New York, 1943, pages 199–206.

A vote of nine to two in the Mediation Board had rejected Lewis's union shop demand, the dissenters being Philip Murray and Thomas Kennedy, both members of the union. When they resigned from the Board because of their disagreement with its policy, the fate of the labor agency was sealed. Murray, head of the CIO, had turned his back on the Board as a tribunal for the settlement of disputes. Unions with cases pending withdrew from proceedings and the NDMB became a court without a docket.

The President, knowing that the dispute had become a matter of life and death for the Board, threw precedent to the winds and attempted a settlement by promising personally to write the few nonunion workers in the captive mines, urging them to join. But Lewis coldly rejected all offers, until the President proposed arbitration through a special board in which the deciding vote was to be cast by John R. Steelman, director of the U.S. Conciliation Service. The miners got their union shop, but not by government fiat. As Steelman was careful to indicate, the award was "not the fruit of compulsion" but of "a voluntary submission to arbitration in the course of a collective bargaining procedure." NDMB's apparatus had failed—worse, it had been reversed.

Industry was alarmed. It saw in Lewis's victory the possibility that the defense program would present fertile soil for the closed shop. Actually, when Lewis raised the issue, some thoughtful business observers felt that the move was much ado about nothing. *Barron's,* for example, pointed out that the closed shop was "not a major issue" in most strikes and that any idea of banning it in defense work was hardly wise. The article concluded that a legislative prohibition on the closed shop "would create more discord than it ended."[6]

But Lewis had stirred up businessmen by his vigorous fight. Ironically, his triumph gained little attention at first. The same newspapers that reported the award also carried the headline: "Pearl Harbor Bombed." As soon as the Administration got its bearings, Roosevelt turned to the labor problem. Already he had the promise of the AFL that there would be no strikes, but the CIO had not yet made any formal commitment. Phil Murray still walked, however falteringly, in the shadow of Big John. Sidney Hillman, Roosevelt's man in the labor movement, was being blasted in the pages of the *Mine Workers' Journal* for having "surrendered" by agreeing to the no-strike pledge. Action was needed if the domestic situation was not to deteriorate as badly as the military situation. The fleet lay under water at Pearl Harbor and the NDMB lay dead in Washington.

Roosevelt called industry and labor together to work out a program. Originally, he planned to have public representatives participate, thus preserving the tripartite character of the conference and maintaining the theory of triple interests involved. Before the discussions got under way, he changed his plans and eliminated the public representatives, simply leaving William H. Davis, who had succeeded Dykstra in the chairmanship of the NDMB, as moderator, and Senator Elbert Thomas as vice-moderator. The change seemed wise. Whatever decision came out of this conference had to be unanimous if it were to be effective; a verdict reached by a split vote, with the public members supporting one side or the other, would not carry its own weight in the long pull ahead.

The prospects were not too bright. The war had changed circumstances, but it had not changed basic attitudes or allayed mutual suspicions. Lewis had just finished accusing Moderator Davis of "sinister intrigue." Industry was grumbling that the management conferees were not "truly representative" of industry. The closed shop was now very much alive, and the award to the miners on Pearl Harbor Day was a signal to other workers. Industry was for the maintenance of the *status quo*

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[6] *Barron's*, April 14, 1941.

ante bellum, for freezing the closed shop where it already existed but refusing its extension to new plants. The President himself was on record as favoring that position. On November 13, 1941, during the "captive mine" controversy, he had said: "I tell you frankly that the Government of the United States will not order, nor will Congress pass legislation ordering, a so-called closed shop." Industry wanted that statement implemented in a formal pronouncement binding whatever new agency was created. Labor was adamant, and deadlock was the result.

America's first wartime Christmas since 1917 was drawing near, 80 Japanese transports appeared on the horizon off Luzon, and welders were striking on the West Coast as a result of a jurisdictional dispute. Meanwhile, bitter words were passing between the conferees, as each side refused to give way. Industry argued that the closed shop was being sought not as a defense against employers but as a weapon against rival organizations. When Charles R. Hook, former president of the National Association of Manufacturers, defended the open shop, Lewis turned challengingly, glaring across the conference table. "I have heard this open-shop talk before," he said. "The open shop is a harlot with a wig and artificial limbs, and her bones rattle. But how much production will she give us, Mr. Hook?"

Roosevelt had decided that come what may he would have the conference out of the doldrums by Christmas. When there was no sign of surrender by either side, Senator Thomas as moderator came forward with a three-point proposal: a no-strike, no lockout agreement; settlement of all disputes by peaceful means; creation of a National War Labor Board to handle industrial conflicts. Hook, speaking for the industry members, declared frankly that the proposal was not acceptable unless accompanied by a ban on the introduction of the closed or union shop where it had not existed before. He reminded the conferees of the President's statement to the miners that the government would not force the closed shop on industry. Labor's feeble reply was that the President had also advised the use of arbitration to settle the issue as it arose in individual cases.

Then the President intervened.[7] With Christmas two days off, he told the deadlocked conferees that he accepted their "general points of agreement." The industry members read with amazement the President's message: "I congratulate you —I thank you, and our people will join me in appreciation of your great contribution. Your achievement is a response to a common desire of all men of good will that strikes and lockouts cease and that disputes be settled by peaceful means." Reluctantly the industry members accepted the President's congratulations on an agreement they had never reached. To keep the record straight, they deliberately refrained from acknowledging the existence of any agreement. Instead they told the newspapermen: "The employer members of the conference accept the President's direction . . ." They reiterated their position that the closed shop should not even be made the subject of arbitration and warned that "unless this issue is resolved in advance, it will impair the effectiveness of the proposed War Labor Board itself."

But the President, for all the congratulatory phrases in his letter to the "gentlemen of the conference," had shown a glint of the iron glove. "Government must act in general," he said. "The three points agreed upon cover of necessity all disputes that may arise between labor and management." That was a direct contradiction of industry's position, which was to eliminate closed-shop demands from the consideration of the Board. Industry had raised other points which the President chose to ignore. It had insisted, for example, that the Board should not be launched on the seas of labor controversy without a chart, that the policies of the Board be defined by Executive Order of the President or enactment of Congress. Instead, the Board that emerged was in effect given only one guide—the rule of expediency.

Such were the unhappy beginnings of the most important labor agency in the wartime governmental apparatus. Set up like the ill-fated National Defense Mediation Board, the new War Labor Board operated as a tripartite body, with equal representation from labor, industry, and the public. Before the

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[7] The creation of the National War Labor Board by Executive Order on January 12, 1942 and the conference preceding it are officially described in the *Monthly Labor Review,* February, 1942, page 427 et seq.

Board could hear a controversy, the U.S. Conciliation Service of the Department of Labor was given an opportunity to resolve the issues; only on its certification could a case go to the Board. Eventually, Regional Boards were set up in every industrial community of the country. The dockets grew heavy as employers and unions rushed through the formalities of collective bargaining on their way to the Board, the real seat of authority. "What's the use of talking? Let WLB decide."

And the WLB did decide. Theoretically without power to enforce its decisions, the Board became potent indeed, because of its position as the President's "adviser." In his hands were vested by constitutional authority the right to seize plants that refused to co-operate in the nation's total war. When the peacetime Selective Service Act was being debated, public sentiment had demanded the inclusion of provisions for the drafting of wealth if its owners should prove recalcitrant in co-operating with their government. The President had exercised that power long before the War Labor Board existed, and had sent troops into aircraft plants and shipyards. If industry and labor did not live up to the "voluntary agreement" which the President had directed, he could move in again.

After three years of functioning, it can be said that the Board's activities have been far more vigorous than its inauspicious beginnings would have led one to expect. But even this statement is too mild a characterization. The Board's continued existence after many a crisis, its survival despite, or because of, its many compromises, was in itself an achievement. In policing the workingman's wages it offended millions of American citizens. The Board stood between management and labor in the settlement of the most difficult contentions that both could raise. In its first three years, it passed on 14,000 dispute cases, affecting the interests of a majority of the organized workers in the country. Millions, however reluctantly, bowed to its mandates. In the three years, there were only 25 occasions when government seizure was invoked to enforce compliance. In 31 cases, the Board called on the President for enforcement action, 17 of them involving union defiance, and 14, employer refusal. In four cases the workers backed down, in one the employer retreated, before the President moved.[8] That was certainly an impressive record, particularly for an agency disliked by all the litigants appearing before it.

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[8] Data furnished to the author by the War Labor Board.

Once the mere creature of a Presidential Executive Order, the Board gained new stature when Congress bestowed on it, by two separate enactments, the power to fix wartime wages and to arbitrate wartime labor disputes. Few businessmen rebelled; the outstanding exception was Sewell Avery. "Congress has accepted a perfectly illegal instrument," he told the Congressional Committee on Wards, "that the President brought up by himself, selecting ten people from this group and ten people from the employer-employee group. They were his own people. He made an arrangement for the whole United States in some funny way." But even with Congressional sanction, the Board, in his judgment, still remained "ridiculous . . . ineffective . . . terrible machinery . . . illegal government . . . that kind of trash . . . a menacing reality that must be destroyed."

When Montgomery Ward was ordered to sign a union contract including maintenance of membership and providing for increased wages, Avery decided finally to meet the issue head-on. His refusal to comply with the Board's directives led to the famous seizure and then into the courts. Dictionaries were thumbed by lawyers and judges to determine whether distribution was included in "the manufacture, production or mining of any articles or materials which may be required for the war effort or which may be useful in connection therewith" —the language used by Congress to define the area of presidential authority in labor disputes. District Court Judge Philip L. Sullivan agreed with Avery that distribution was not a part of production.[9]

Despite the efforts of the Attorney General to bring the issues immediately to the Supreme Court, the dispute dragged on slowly through the judicial process. For months the War Labor Board's authority was under a cloud, from January to June, 1945, when the circuit court of appeals reversed the district court. Even then, the court of last resort had not yet spoken. In the interim the Army still held possession of the Ward facilities but took no step to enforce the terms of the WLB orders.

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[9] United States v. Montgomery Ward & Co., 58 F. Supp. 408, decided January 27, 1945; reversed CCA-7, June 8, 1945.

The long delay had its effect. For the first time, noncompliance cases began to accumulate on the Board's calendar as it waited for a judicial clarification of the President's seizure powers. Then it introduced a new weapon: instead of taking over plants, it arranged with the War Production Board to cancel the priorities of offending companies. In the first years of the war, that method could not be used, since the Army and Navy needed every possible ounce of production. But with the Nazi war in its last days and the cutback program already starting, the denial of allocations and the cancelling of contracts became serious deterrents for hostile employers.

On the whole, despite Mr. Avery and those who relied on his tentative victory in the lower court, the Board, which was born in a dubious agreement, became the major instrumentality in shaping the future of labor relations.

Labor had expected to retain the right to strike by forswearing its use. But as long as there was a broken window in the neighborhood, teacher was not going to tolerate a single slingshot. Nobody had expected that strikes would cease completely. No statute has ever been passed that does not have its violators, and certainly no agreement involving millions has ever been unanimously observed. But public opinion, aroused by the thought of men dying in war, was unwilling to gloss over any lapses. What if the experts down at the Bureau of Labor Statistics found that since the no-strike agreement strikes had fallen to a fraction of one percent of the nation's man-hours? It was only of academic interest that American labor's record was better than that of the English.

When Lewis's coal miners insisted on a $2-a-day increase in 1943—outright or through portal-to-portal pay—there was no sympathetic ear awaiting their demand.[10] Knowing every rule in the book, the master strategist from the coal mines realized that no case could go to the Board until the normal bargaining practices had been followed through to a fizzle and the U.S. Conciliation Service had been given an opportunity to settle the dispute. After mapping out his careful campaign, he sat down with the coal operators and told them calmly what he wanted. Their answer was brief: Let the WLB decide! The operators would not even present counterpropsals.

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[10] The "portal-to-portal" controversy is described in *Labor Baron: A Portrait of John L. Lewis* by James A. Wechsler, William Morrow and Company, New York, 1944, Chapters 13–14.

The WLB had no right to set aside the statutory requirements of the Wagner Act under which employers have a duty to bargain—and the NLRB had held that the duty to bargain involved a duty to make counterproposals. Lewis had no intention of going before the WLB and dealing with its chairman, William Davis, whom he anathematized as "a rapacious, predatory Park Avenue patent attorney." He would deal with Steelman of the Conciliation Service or Secretary of the Interior and Fuel Administrator Harold L. Ickes. But he would not walk into a WLB hearing room.

When the pits emptied, the antistrike bill automatically came out of the Congressional filing cabinets. Representative Howard Smith and Senator Tom Connally whipped together a program aimed directly at Lewis. Their bill gave statutory sanction to the War Labor Board to handle all disputes that "may lead to substantial interference with the war effort." Their proposed "antistrike law" did not forbid all strikes but merely provided for a 30-day cooling-off period and the conduct of a strike vote by the NLRB; only after the President had ordered the seizure of the plant involved did it become a criminal offense to encourage or instigate a strike, though the act of striking itself was not outlawed. Ostensibly a wartime measure, the bill also included provisions banning union contributions to political campaign funds.

The Administration, which had postponed antistrike action, was now in a different mood. Much has been made of Lewis's hatred for Roosevelt, which burned quite brightly, but the President reciprocated in kind. Roosevelt made no substantial effort to rally his Congressional followers in a fight against the bill. On the contrary he favored the principle of antistrike action and pointed to Lewis as justification for it. But all labor, even those who had come to detest Lewis with the same fervor that once characterized their cordiality, opposed the law. When the congressional vote was reported, the unions called for a presidential veto. Green took on a militant tone, saying boldly: "The workers of our country would never become reconciled to this legislation. They would protest against it and rebel against it in the event it became the law of the land." Those were strong words for Green. Murray quibbled over particular clauses, arguing that the bill would tie up the operations of the Board and destroy its tripartite character, that its passage was "one of the most serious blows directed against our national war effort and [was] the equivalent of a major military disaster."

The President, on the insistence of his labor followers, vetoed the bill but left no one satisfied. In returning the bill to Congress he pointed out that the no-strike record was good: "That pledge has been well kept except in the case of the leaders of the United Mine Workers. For the entire year of 1942 the time lost by strikes averaged only five one-hundredths of 1 percent of the total man-hours worked. The American people should realize that fact—that 99.95 percent of the work went forward without strikes, and that only five one-hundredths of 1 percent of the work was delayed by strikes. That record has never before been equaled in this country. It is as good or better than the record of any of our allies in wartime."

Nevertheless, the President completely endorsed the principle of outlawing strikes, declaring that if the law were limited to the first seven sections he would have signed it. "But the bill contains other provisions which have no place in legislation to prevent strikes in war-time and which, in fact, would foment slow-downs and strikes," he said, referring to the 30-day "cooling-off" period and the machinery for the conduct of strike votes. He emphasized, too, that in a bill aimed at preventing strikes, Congress had included a ban on contributions to political campaigns. "If there be merit in the prohibition it should not be confined to war-time and careful consideration should be given to the appropriateness of extending the prohibition to other non-profit organizations."

On June 25, 1943, Congress overrode the veto very easily. Conveniently the veto came to the floor on a Friday afternoon, without the usual effort to round up the reliable Administration supporters, many of whom had left Washington for the customary week end. Labor sulked in its tent, moodily trying to determine whether the manner of the veto was tantamount to a betrayal, noting that in the message the President had urged as his alternative an even more unpalatable measure, one which would have penalized striking workers without trial by jury:

"I recommend that the Selective Service Act be amended so that persons may be inducted into non-combat military service up to the age of 65 years. This will enable us to induct into military service persons who engage in strikes or stoppages or other interruptions of work in plants in the possession of the United States."

Passage of the War Labor Disputes Act had none of the drastic effects anticipated by its opponents and advocates. Six months after its enactment, time lost because of strikes was still less than one percent of available man-hours, but it was higher than before.

The 30-day "cooling-off" period for workers in war industries did prove in some cases to be a 30-day "heating-up" period. Filing a notice of intention to strike became a new tactic in labor relations. Labor leaders found it useful to get a public endorsement of strike plans in a government-conducted vote. Lewis, for example, was able to show his power in his 1945 coal negotiations by letting the NLRB spend $200,000 to poll his membership and record officially that the miners favored a strike by eight to one. In the first year of the law's operation, unions sent the Secretary of Labor more than a thousand strike notices, the AFL accounting for almost three-fourths of them.[11] Strike votes were actually taken by the National Labor Relations Board in only 232 cases. The workers involved were formally asked, "Do you wish to permit an interruption of war production in wartime as a result of this dispute?" In most instances, they voted to strike, but the number of stoppages that actually followed such votes was only 64.

The law did not put an end to wildcat, rank-and-file strikes. In the two years that followed its enactment, about 125 persons were indicted for fomenting strikes. Almost all of them were convicted and fined $25 or $50, a few as much as $250. A one-year prison term was imposed by a district court in Kentucky, but as a rule jail sentences were suspended.[12]

Behind the small number of strikes that occurred and the large number of potential strikes that never materialized lay a host of issues. The no-strike pledge and the War Labor Disputes Act might suppress but could not eliminate the causes of unrest. Under the surface the enduring conflicts between management and unions still simmered, boiling over often enough to give evidence that they were still there. And high on the list of issues was the basic demand of labor for union security, the protection of their organizations.

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[11] Ninth Annual Report of the National Labor Relations Board for the fiscal year ended June 30, 1944, page 92.

[12] Compiled from data furnished to the author by various government agencies.

III

BATTLE FRONTS

CHAPTER V

MAGINOT LINE—UNION SECURITY

The greatest piece of industrial statesmanship that I know of in this country, or in any other, in my time or the times that I have read about!" That was WLB Chairman William H. Davis's description of maintenance of membership.

"Using the prestige of the government to force the surrender of the liberties of employers and employees everywhere," was Sewell Avery's characterization.

Before administrative agencies and Congressional committees, in newspaper advertisements and in the courts, the management of Montgomery Ward insisted that maintenance of membership means the closed shop, was therefore a violation of individual rights, and that the WLB had no authority to order its inclusion in union contracts. When the Board, in November, 1942, directed Wards to sign such a provision, the company refused to comply. That was Avery's first defiance of the new Board, though he coupled it with the statement that he would sign if ordered to do so by the President. With little delay, Roosevelt so ordered, whereupon Avery offered to rewrite the clause, adding a statement that the company was not signing voluntarily but only under compulsion. The Board rejected his clause, but finally a compromise was worked out permitting Wards to indicate its protest. When that contract expired a year later, the company refused to repeat the performance and reiterated all its old objections. After a few months the GI's marched in and Avery was carried out.

Montgomery Ward's resistance to maintenance of membership gave the Board the jitters. Its personnel, some of whom had served on the old National Defense Mediation Board, remembered that the union security issue had rung down the curtain on the NDMB. They were determined not to let Avery do to the WLB what Lewis had done to its predecessor.

The closed-shop issue, though still important, had been playing a smaller part in the labor scene until Lewis restored it to prominence in the captive mine strike. Newly organized unions did feel the need for such protection, but since the pressures of organizational insecurity were being lifted by the activities of the National Labor Relations Board, the urgency was no longer as great as it used to be. Employers could not discriminate against union members, discharge them, or refuse to hire them; and a union needed only a majority of the employees in order to become the exclusive bargaining agent for all. Nonunion workers were joining up once a contract was signed because they wanted a voice in the decisions of their bargaining representative. In addition, there were compelling social pressures all around them. In 1941, a member of the Judiciary Committee defined the open shop as a place where union and nonunion men work together. "Oh no," said Sidney Hillman, "they just work in the same place; they don't work together."

Strong unions don't need the closed shop, but the war revived the old uncertainties and fears. Would American workers with a less vigorous trade union tradition cling to their organizations when the contraction of the civilian economy prevented further gains, even led to reductions in the standard of living? The split between the AFL and the CIO did make the closed shop desirable as a protection against interunion raids. Furthermore, the truce between labor and capital was at best temporary and partial. The eternal contest for the division of the spoils of industry could not be wholly suspended, and the war economy might well be the opportunity for employers to push back the advance of labor.

At the conference table from which the War Labor Board emerged, the closed shop had been the longest and most hotly debated subject. When the Board was set up, the issue was clearly in its hands, with labor as insistent as ever and industry as firmly opposed. Pointing to a labor victory was the fact that Lewis had just won the closed shop by killing the Mediation Board; favoring industry was the fact that the President had declared that government would not force workers into any union—"that would be too much like Hitler's methods toward labor."

Feeding each other's apprehensions, both sides stood firm. Now the unions were more concerned than ever about the closed shop. Their leaders had a fairly clear picture of what lay ahead for labor. Having agreed not to strike, they knew that the next few years would find them scurrying around to local unions "putting out the fires" lit by disgruntled union members. They realized that wage control was in the cards and that fewer gains could be offered to their members during the war.

The industry members of the Board were not blind to the problem that confronted the union leaders. Roger D. Lapham, of the West Coast shipping industry, who later left the Board to become mayor of San Francisco, realized that there would be two major problems—wages and union status. Of the two he expected that union security would be "the more troublesome because neither management nor labor seems able to discuss it without an emotional pounding of the table." While staunchly defending management's opposition to a government-imposed closed shop, he was capable of stating labor's argument fairly:

> "With the right to strike eliminated and the wage level limited by the government, how are these leaders to retain their members? The overhead expense of these large national labor unions is substantial. Their revenue flows only from their membership. Can union leaders be held accountable for labor troubles if, because of a falling off in their membership, they find they control a minority rather than a majority in plants where they are the bargaining agents? If one is realistic, it is hard to reconcile the views of those in management who wish to hold union leaders responsible for more stable labor relations and yet who will not help them, in some practical way, to attain responsibility."[1]

On the basis of that concept, the choices were few. There were only four basic types of union security provisions from which the Board could pick. First there was the closed shop, under which the employer is permitted to hire only persons who are members of the union, and the workers must remain members of the union or lose their jobs. Usually when a union gets a closed-shop contract for the first time, it admits the nonunion workers.

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[1] Congressional Committee Investigating the Seizure of Wards, Hearings, pursuant to H. Res. 521, 78th Congress, 2d Session, page 620 et seq.

Somewhat less stringent is the union shop. Here the employer may hire nonunion workers, but they must join up within a stipulated period of time and remain members.

In a third type, the preferential shop, the employer is bound only to give preference in hiring to union members and they must continue their membership.

Finally, there is maintenance of membership, under which union members have an escape period of 15 days to resign from the union and continue on the job as nonunion members. If they don't drop out during that period, they must remain union members for the life of the contract. Nonunion workers are under no compulsion to join. Neither are new workers coming into the plant, but if they do join, they too must maintain their membership. In effect, the clause results in a freezing of union membership. Before it becomes effective, every worker has an opportunity to decide whether he wants to be bound to membership—usually for one or two years—or to remain free of any union obligation.

Frequently coupled with such union security measures is the check-off, which requires the employer to deduct union dues and assessments from the union members' pay envelopes and turn the money over to the union treasury.

Maintenance of membership was not, as many have been led to believe, a War Labor Board innovation. Back in the peacetime days when labor and management bargained collectively without government looking over their shoulders, the parties had frequently compromised a closed-shop dispute by agreeing on maintenance of membership. They would write into their contract some such clause as the following: "Any permanent employee who is now in good standing in the union or who after this date becomes or is reinstated as a member shall be expected to maintain such membership in the union during the life of this agreement." When the National Defense Mediation Board in 1941 was faced with the union security issue, it grasped at this provision as the answer.

But in those days, as in the early cases of the War Labor Board, there was no escape clause. The industry members of both the NDMB and the WLB repeatedly dissented on the ground that union members should be given the opportunity to withdraw before they were committed to remaining members. Ultimately, industry won. "After the pressure of very energetic industry members on the Board led by Roger Lapham," as William Davis has explained, the 15-day escape period became standard.[2] In every case since June, 1942, the escape provision has been included.

This was the Board's compromise between the closed shop and union insecurity. To many businessmen, it was no compromise at all. For example, Sewell Avery's advertisements characterized maintenance of membership as nothing less than the closed shop, though he receded from that view when questioned before the Congressional Committee investigating the seizure of Wards. John A. Barr, the head of his labor relations department, admitted that under maintenance of membership, nonunion members did not have to join the union and that union members had an opportunity to withdraw if they wanted to. He conceded that it was a compromise, but, he added, "an immoral compromise." [3]

The industry members on the Board, too, were never satisfied with the maintenance-of-membership compromise. Originally, the management spokesmen dissented from the ordering of such clauses unless the Board would agree to police the behavior of unions in relation to their members. Industry's principal argument against the closed shop or other forms of union security has always been that the union is given too much authority over the employees. For a breach of union discipline, the worker can be expelled from the organization and the employer compelled to fire him; in effect, the union passes judgment and then delivers the worker to the secular arm for punishment—discharge by the employer.

To this, labor has always answered, not too happily, that union expulsions are ultimately reviewable in the courts. Furthermore, many union contracts provide for impartial arbitrators designated by both parties to administer the collective bargaining agreement and examine union conduct. For example, the United Automobile Workers, CIO, expelled two Ford workers as "trouble-makers." The arbitrator, however,

[2] Ibid., page 43.

[3] Ibid., pages 345–6 and 393.

found that the union was penalizing the men for speeding up their work and ruled that the company did not have to fire them. "To require discharge would be to impair the rights and obligations of the union shop," he said in his decision, emphasizing that there were union obligations as well as rights involved.[4]

By the summer of 1942, maintenance of membership had already become standard WLB policy in meeting the closed-shop issue. A union would be granted a renewal of any union security provision in its pre-existing contract; if it had none, it could get maintenance of membership. Until that time, the industry members had voted against the provision, but in August, 1942, they announced that there was little point in "voting no as a matter of principle." Instead they emphasized what seemed to them to be the "non-closed shop" features of the clause: anyone who was not a union member and workers newly hired were under no obligation to join. They underscored the Board's rule "that no coercion shall be exercised by the union in securing members," and that issues of coercion, if they arise, are to be settled by a WLB-appointed arbiter.

Having established the right of secession from the unions—a principle which labor never conceded before—the industry members pressed for additional conditions to be imposed on unions seeking maintenance of membership: first, that the union keep on file with the Board up-to-date copies of its bylaws, lists of its personnel, and a semiannual financial statement. This information was to be accessible to the public, to union members, and to interested employers. Furthermore, the union was to agree to make no contribution to any political campaign fund. Joining with the labor members, however, the public members of the Board repudiated the idea that one if its functions should be policing the internal affairs of unions.

Eventually, though, the Board veered toward the management position. In the public excitement that Montgomery Ward aroused over maintenance of membership, labor has defended the Board's policy, preferring to forget that the industry members had their way. The dissents of the industry members made maintenance of membership what it is today and what it will mean to labor tomorrow.

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[4] Award of Arbitrator Harry Schulman, dated March 29, 1944, reported in 14 Labor Relations Reporter 219, dated April 24, 1944.

The Board did not go as far as Lapham and his associates wanted, but it took a long step in making maintenance of membership an instrument for union regulation. It announced a policy of denying membership-maintenance to any union which willfully violates its no-strike pledge, does not hold reasonably frequent elections, or fails to give reasonably frequent financial reports to its members. Thus, quietly, under the pressure of wartime conditions, the unions were dislodged from one of their fundamental tenets—the noninterference of government in intra-union affairs. What had been devised as an instrument for the protection of union security gradually evolved into an instrument for potential public regulation of union behavior.

The Board has been very careful in applying its tests. Whenever a union with a strike record appeared before it, there was always close scrutiny of the facts and circumstances. Invariably the Board asked: Who started the strike—wildcat employees, local union leaders, or international union representatives? Did the union leadership make a serious effort to end the strike?[5] To what extent were external factors—delays in governmental machinery, for example—responsible for the strike?[6] Unions have not been denied membership-maintenance if the WLB believed that the strike was the result of provocative action by the employer. For instance, where a union disregarded its no-strike pledge and walked out because the employer was not complying with a WLB decision, it was not penalized.[7]

On the other hand, where a union walked out after the 30-day cooling-off period and a formal strike vote in accordance with the War Labor Disputes Act, the Board nevertheless denied maintenance of membership. It held that even though there was no violation of the law, the union had broken labor's no-strike pledge.[8] In some cases, the Board granted membership-maintenance only conditionally, keeping a check on the union's future conduct. In one case, it held out the prospect of maintenance of membership if the local union were placed under the supervision of its international and showed a record of responsibility over a specified period.[9]

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[5] Jones & Laughlin Steel Corp., 5 War Labor Reports 1, decided November 30, 1942.

[6] Allis Chalmers Co., 7 War Labor Reports 297, decided March 30, 1943.

[7] Borg-Warner Corp., 6 War Labor Reports 233, decided January 20, 1943.

[8] Anson & Gilkey Co., 19 War Labor Reports 498, decided October 4, 1944.

The clearest situation in which the Board revealed its intention to police internal union affairs came in the case of the American Newspaper Guild.[10] It granted maintenance of membership on the condition that the union live up to a section of its own constitution which prohibits the disciplining of members because of their writings. Though there had been no evidence that the union was violating its own rules, the Board required the appointment of an impartial arbitrator to review any cases that might arise. In another case, a Regional War Labor Board ordered the AFL's International Association of Machinists to set aside one of its bylaws prohibiting overtime work beyond eight hours a day and 48 hours a week; when the union refused, its members were threatened with induction into the Army, withholding of their OPA rations, refusal of job referrals by the WMC, and government seizure of the plant. When the same organization, in another case, refused to comply with a WLB order to end a jurisdictional dispute, it was deprived of all benefits under its union contract, including union security. Similar action was taken in the case of the New York newspaper deliverers in July, 1945.[11]

In this way, the war brought into motion a new factor in labor relations—public regulation of union activities, a principle for which employers had long been agitating. The development, so far as the WLB is concerned, was not the result of any preconceived design. It was in the very nature of war and its implications for the home economy that government would intervene. Just as the war subjected business to the stern dictates of national production objectives, so too it began to change the relationship between the unions and the government.

Discussing maintenance of membership in an early WLB decision, Roger Lapham had quoted an editorial from the

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[9] Yellow Truck and Coach Manufacturing Co., 5 War Labor Reports 244, decided December 14, 1942.

[10] Patriot Co., 14 War Labor Reports 355, decided March 3, 1944.

[11] These measures were taken under the powers granted to the Director of the Office of Economic Stabilization by Executive Order 9370, issued August 16, 1943.

Saturday Evening Post[12] which said, in part: "What the [War Labor] Board has not said, but has strongly implied, is that, if the relation between worker and employer is to be handed over to a majority of a union, backed by the power of the government, the inevitable consequence is that the government must step in to make it certain that the manner in which union leaders use this new power is in accord with justice, reason, and public interest." About two years later the Supreme Court applied that principle.

In December, 1944, the High Court handed down three decisions[13] which were widely reported but commonly misread. To most laymen, and even to some lawyers, the Court was merely ruling on the right of Negroes to enjoy the equal protection of unions under the Railway Labor Act and on the power of the NLRB to withhold collective bargaining certifications from unions which discriminate. But the judicial pronouncement, if properly understood, should have rocked the labor movement. In effect, the Court declared that unions, as the beneficiaries of government action, must now submit to government regulation.

Since unions have accepted the protection of federal law, said the Court, they are no longer private bodies. Once a union stands in the position of exclusive bargaining agent for all the workers in the plant or bargaining unit, it must act for all without any discrimination. Having accepted the benefits of federal legislation, the union is now a little legislature unto itself. Consequently, it must "give equal protection to the interests of those for whom it legislates." And the fulfillment of that duty can be policed by the courts, by governmental administrative bodies, or by the legislature.

The Supreme Court was unanimous, though it split up immediately on the application of this new approach. That same day it handed down a decision upholding the NLRB's right to wield important regulatory powers. An independent union had defeated the CIO in a Board election and signed a closed-shop contract with the Wallace Manufacturing Company, makers of clothespins. The CIO workers had then applied for admission into the independent union but were rejected. The company, carrying out the closed-shop agreement, fired them. They brought charges and the National Labor Relations Board found that the independent union was a company union and required the company to reinstate the discharged workers. By a five-four vote, the Supreme Court sustained the Board, and the employer was ordered to make good the back pay even though he had acted originally on a Board certification which was later revoked.

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[12] *Saturday Evening Post,* June 13, 1942, quoted in Ryan Aeronautical Co., 1 War Labor Reports 305, decided June 18, 1942.

[13] Steele v. Louisville & Nashville R.R. Co., 323 U.S. 192; Tunstall v. Brotherhood of Locomotive Firemen, 323 U.S. 210; Wallace Corp. v. National Labor Relations Board, 323 U.S. 284; all decided December 18, 1944.

So complicated has become the problem of government intervention in labor union affairs that the old traditions of "liberals" and "conservatives" no longer guide them to any uniform conclusion. It will probably take years before they reorient themselves. With the majority in this case stood Black, who wrote the opinion, Reed, Rutledge, Douglas, and Murphy. Dissenting were Jackson, Stone, Roberts, and Frankfurter.

As the minority saw it:

> "Neither the National Labor Relations Act nor any other Act of Congress expressly or by implication gives to the Board any power to supervise union membership or to deal with union practices, however unfair they may be to members, to applicants, to minorities, to other unions, or to employers. This may or may not have been a mistake, but it was no oversight. We suppose that there is no right which organized labor of every shade of opinion in other matters would unite more strongly in demanding than the right of each union to control its own admissions to membership. Each union has insisted on its freedom to fix its own qualifications of applicants, to determine the vote by which individual admissions will be granted, to prescribe the initiation or admission fees, to fix the dues, to prescribe the duties to which members must be faithful and to decide when and why they may be expelled or disciplined. The exclusion of those whose loyalty is to a rival union or hostile organization is one of the most common and most understandable of practices, designed to defend the union against undermining, spying and discord, and possible capture and delivery over to a rival. Some unions have battled to exclude Communists, some racketeers, and all to exclude those deemed disloyal to their purposes."

But the majority of the Court had not only established the principle that the union holding a closed-shop contract may not exclude workers from membership, but had penalized the employer for attempting to carry out the contract. The minority argued: "The Court is deciding not only that without authority of Congress the admission practices of a labor organization having a closed shop may be policed, but also, contrary as we think to the Act, that the employer is empowered and required to do the policing."

The majority had launched a new judicial trend. "This and the other cases before us," said the minority, "give ground for belief that the labor movement in the United States is passing into a new phase. . . . We appear now to be entering the phase of struggle to reconcile the rights of individuals and minorities with the power of those who control collective bargaining groups. . . . Whether the closed shop, with or without the closed union, should or should not be permitted without any supervision is in the domain of policy-making, which it is not for this Court to undertake. Neither do we find any authority in the National Labor Relations Act to undertake it."

Then from the highest bench in the land, they handed down this warning to organized labor: "It happens to be an independent that won here. But counsel for the Board assured us on argument that this is not a one-way policy to require independent unions to admit their enemies. It would, as we understand it, have been applied in the same manner if the CIO had won and had excluded some independent members—on suspicion, perhaps, that they were company spies. *The obstacle that this decision will interpose to all future bargaining for closed shops is likely to be felt by CIO and AFL unions many times as often as by independents.*"

Yet the logic and fundamental justice of the majority's position could not be denied. To have decided otherwise would mean penalizing the free vote of workers in a Board election, confronting them with loss of their jobs if they voted or campaigned for the loser.

Since the trade unions have been given official status by reason of governmental certifications through the National Labor Relations Board, they are now virtually dependent on government charter. Certifications can be and have been withdrawn in some cases by the NLRB, with a consequent loss of exclusive bargaining rights. Where a union refuses to admit or represent fairly the interests of a minority group because of race, the Board will not certify it.[14] Under the Wagner Act, union members who engage in sit-down strikes lose the right of reinstatement to their jobs.[15] Once the unions accepted government as a third party in the collective bargaining relationship, they should have expected its participation to increase.

The cycle has been a long one and is not yet completed: government hostility to unions, government sanction and assistance, then government regulation. Originally, government proscribed the self-organization of workers altogether. The early tradition of Anglo-Saxon law prohibited the combination of workers for the purpose of improving their wages or living conditions. It is a far cry back to the fourteenth century when the statute books of England forbade the "conspiracies" of workingmen, but that tradition had been carried over to the United States. Many a bitter controversy was settled by the naked power of the state, concerned primarily with the protection of property rights. When Debs was jailed in the Pullman strike of 1894, the Supreme Court upheld his sentence with the statement: "The jurisdiction of courts to interfere in such matters by injunction is one recognized from ancient times and by indubitable authority."[16]

By the sheer persistence of labor, collective bargaining got a foothold anyway. When depression made business the focus of public wrath and salvation seemed to lie only in raising the purchasing power of the people, the government officially sanctioned the right of workers to bring organized pressure on their employers. And once labor had achieved this recognition, industry's opposition was translated into efforts to control the creature.

At first, business believed that compulsory incorporation of the unions would have that effect. Ironically, labor which had once fought for incorporation as a sign of society's approval resisted. But industry's major concern was not with the mere fact of incorporation—that would only have given the unions limited liability in the event of lawsuits. It was argued that incorporation would make unions more "responsible" since it would subject them to lawsuit. But that was nonsense, since the courts had pretty well established the suability of labor organizations. Even today some businessmen think incorporation is necessary, despite the fact that unions are in the courts as frequently as other types of associations. As late as 1945, a federal court had to tell litigants who raised the question that the issue of labor's legal accountability was already being settled 40 years before. "Since the turn of the century, the tremendous growth of labor unions, their internal setup and organization, the extension of their rights and privileges, and the recognition and protection of these in state and federal statutes has resulted in a nearly universal change of viewpoint on the subject of their suability."[17] If unions are not sued today as often as some would like, the reason is not lack of judicial machinery but the absence of legal grounds in the law of torts, contract, and crime.

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[14] Bethlehem-Alameda Shipyard, Inc., 53 NLRB 999, decided November 30, 1943; Larus Brothers, 62 NLRB No. 134, decided June 30, 1945.

[15] National Labor Relations Board v. Fansteel Metallurgical Corp., 306 U.S. 240, decided February 27, 1939.

[16] In re Debs, 158 U.S. 564, decided May 27, 1895.

Business has argued, too, that incorporation would make the unions more democratic, but the fact is that incorporated business has been no more democratic than unincorporated business. In most corporations the stockholders have little voice in the decisions of the board of directors. When Sewell Avery's stockholders almost unanimously approved his defiance of the President, it was significant that only 300 of his 63,000 shareholders attended the meeting. The system of "proxies" has been developed to a point where the individual owners of the company rarely express any opinions. Whatever the defects in the democratic machinery of some unions, mostly in the AFL, a large proportion of the membership does participate in the organizational decisions and policies through conventions, membership meetings, elections, and referenda. The turnover in union officialdom due to rank-and-file action is greater than in corporate boards of directors.

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[17] Busby v. Electric Utilities Employees Union, CCA–DC, 147 F. (2d) 865, decided January 22, 1945, citing United Mine Workers v. Coronado Coal Co., 259 U.S. 344, decided June 5, 1922.

What has really interested management is the compulsory registration of unions. In some states, the legislatures have passed laws requiring union organizers to register or obtain licenses before they may go from door to door, application cards in hand. The constitutionality of such laws was challenged for the first time by R. J. Thomas, president of the CIO Auto Workers, in a case arising from a Texas statute.[18] To test the law, Thomas had deliberately refrained from registering, addressed a public meeting on the general benefits of unionism, and had then invited an individual worker in the audience to join the local union.

The High Court, resting on the First Amendment to the Constitution, held the law invalid to the extent that it prevented Thomas from soliciting union membership in a public address. Labor applauded this judicial victory without noting that the justices added that state legislatures have the power to regulate unions just as they have the right to regulate business where the public interest is at stake. Thomas's direct appeal to the individual in the audience to enroll in the union was excused only because it was part of a public address, protected by the free speech clause of the Constitution. Otherwise he would have been guilty of lawbreaking. But ordinarily, said the Court, once a union organizer engages in the overt activities of organization, "as when he undertakes the collection of funds or securing subscriptions, he enters a realm where a reasonable registration or identification requirement may be imposed."

What constitutes "reasonable" regulation will keep the nine judges busy for years to come. The first of the cases, arising from the Texas law, had found them at fives and fours. When the appeal on the Alabama and Florida laws was heard, newspapermen were amazed by the unusual spectacle of the judges in undignified debate in open court, arguing with each other on behalf of opposing counsel. These issues will infuse an alien passion into the wonted judicial atmosphere.

In the Florida case,[19] the unions had real reason to rejoice over the outcome. The statute required that union representatives obtain a license before they could function; no one would be licensed who had not been a citizen of the United States for at least ten years, who had been convicted of a felony, or was not a person of good moral character. Furthermore, unions were directed to file data concerning their internal organization. In a test case started by the AFL's plumbers, the Attorney General of Florida had obtained an injunction against the union and its unlicensed representatives, restraining them from acting as collective bargaining agents. They promptly challenged the constitutionality of the law on the ground that the members were engaged in work affecting interstate commerce and were therefore protected by the Wagner Act which safeguards the right of any majority union to bargain for its members. In effect, their counsel said, the statute was in conflict with the federal law and must therefore give way.

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[18] Thomas v. Collins, 323 U.S. 516, decided January 8, 1945.

[19] Hill v. State of Florida, 65 S. Ct. 1373, decided June 11, 1945.

A majority of the court agreed. "The collective bargaining which Congress has authorized contemplates two parties free to bargain, and cannot thus be frustrated by state legislation," wrote Mr. Justice Black. But, as he noted very carefully, state regulation is proper where it does not interfere with the federal right. "The requirement as to the filing of information and the payment of a $1.00 annual fee does not, in and of itself, conflict with the Federal Act. . . . It is the sanction here imposed, and not the duty to report, which brings about a situation inconsistent with the federally protected process of collective bargaining." Penalties which would not have stripped the unions of the power to bargain would have been permitted.

Two judges disagreed. Mr. Justice Frankfurter, with Roberts joining in his dissent, demanded, "Has Congress spoken so as to silence the States?" and replied in the negative.

On the issues as presented by the Alabama law,[20] containing restraints similar to those in the Florida statute, the judges refused to pass, preferring to wait until the State's Supreme Court had an opportunity to interpret its provisions in specific instances. It will take much time and argument before the High Court draws a clear line between "reasonable" and improper state regulation of the unions. Each individual decision on a particular statute will be followed by amendments in the state legislatures with a view to bringing the law within the framework acceptable to the federal Supreme Court. But eventually there will be a meeting of the minds on a system of regulation.

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[20] Alabama State Federation of Labor v. McAdory, 65 S. Ct. 1384, decided June 11, 1945.

It was no accident that the states became active during the war in seeking to control labor organizations. Union practices could, and in more than a few cases did, impede the movement of workers to war jobs. Many unions mapped out programs with the government for switching workers to more necessary activities and locations, but there were a significant number of "closed unions" which restricted admissions to their ranks and attempted to ban excluded workers from the available jobs. That was so in AFL building trades unions, which were heavily involved in the various war construction contracts. These unions reacted exactly like businesses which refused to expand their plant capacity. Looking to the postwar period, industry feared excess capacity and a loss of control over the market; the "closed unions" feared a surplus of workers and a runaway job market.

To many, the "closed union" with its prohibitive initiation fees seemed somehow to be relevant to maintenance of membership. Actually, the "closed unions" were not interested in maintenance of membership at all. For them, the issue was a straight closed shop, with nonunion workers given temporary second-rate membership which would lapse after the war. The majority of the unions, on the other hand, were interested in building permanent membership. In the absence of the closed shop, maintenance of membership was their best bet, and they took it gladly, despite the implications of government regulation.

Now in return for the favors of the state, labor has become answerable to it. Convinced that the Administration was friendly to its interests, labor did not bother to ask where it was being led. In the War Labor Board, industry moved from dissent to dissent, and in the end came close to its objective. As we have seen, the Supreme Court, without the pressure of industry representatives, came inevitably to the same result. Both the Board and the Court were pushed on the same road under the impetus of a war economy.

Labor can hardly be expected to welcome this outcome of its successful struggle. It has been winning the fight for union security against the attacks of employers. At the beginning of

1945, there were about 31 million workers in private industries where unions are actively engaged in collective bargaining. More than 14 million of these, about 47 percent, were working under written union contracts. Of these, almost 28 percent were in closed shops; 18 percent in union shops—totaling six and a half million under closed or union shops. More than three million, 27 percent of those governed by collective bargaining agreements, were under maintenance of membership; in most cases, less than one percent of the members had attempted to withdraw from the union during the "escape period." About six million, more than 40 percent, were paying dues to their unions under the check-off system, the employer deducting the amounts from the pay envelope.[21] From the standpoint of union security, the unions had arrived. But they paid a heavy price in loss of independence.

Will Davis told the Congressional Committee on the Ward situation: "My prediction to you is that when the war is over, American industry will come to the Congress—and I make this prediction advisedly—and say to the Congress, 'Will you not please enact into the law the provisions of the maintenance of membership clause that was developed under the War Labor Board?' That is exactly what is going to happen because as soon as the war is over the fight is on again, and this is the best quietus on it that could possibly be imagined. I know a prophet is without honor, but I make that prophecy."

Speaking of the closed-shop issue, he said: "We chloroformed it for the duration." But the anesthetic was not local.

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[21] *Monthly Labor Review*, April 1945, page 816 et seq.

CHAPTER VI

THE WAGES OF WAR—STABILIZATION

DURING the Congressional hearing on the seizure of Wards, Representative J. Bayard Clark turned to a company official and asked: "Suppose Congress should today wipe out the War Labor Board—where would we be?"

"That would be delightful," interjected Sewell Avery.

Millions of workers throughout the country were inclined to agree. To them, the War Labor Board has been primarily a tough, sometimes impenetrable, barrier to pay increases. Many employers, to be sure, have been required by the Board to raise wages. Avery was among them, and his resistance to the Board was aroused in part by its ordering Wards in a variety of cases to pay minimum wages of 46, 48, and 50 cents an hour. Though Avery's counsel told the Congressional Committee that it had been the company's "practice from the beginning to accept the wage orders or wage recommendations of the War Labor Board regardless of how unfair they may have been," increases ordered in 1943 had not yet been given by the end of 1944.[1]

But by and large the Board's function has been to keep wages down. The WLB has blocked more pay raises voluntarily offered by employers than it has granted in labor disputes. It has prevented labor from reaping the harvest of the "sellers' market" created by the manpower shortage when even unskilled labor was at a premium.

No sooner was the War Labor Board appointed than its members realized that settling disputes would call for wage control. Roger Lapham, being of systematic mind, sat down immediately and drew up a set of notes to guide his fellow industry members on the Board. "As an employer representative of this

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[1] WLB Release No. B–1874, dated December 16, 1944, and WLB Release No. B–1878, dated December 17, 1944.

Board," he wrote, "I feel it is this Board's duty to go ahead and establish a national wage policy. . . ." The very nature of the Board's assignment required a clear-cut enunciation of wage objectives, for most of the disputes between labor and management involved the question of how the pie was to be sliced.

From the standpoint of labor, the Board got off to a generous start.[2] For example, when the CIO Aluminum Workers in early 1942 faced Alcoa across the hearing room, the union argued that the company was rolling in profits as a result of war contracts. Though America had already been in the war for two months, the WLB was still thinking in terms of peacetime economics. It gave the increases, stating its position as follows: "It is generally recognized that if a company's financial condition is so favorable that it can pay a reasonably high wage, that fact should be taken into consideration by any tribunal or wage board which is called upon to settle a dispute over wages. Little progress would be made in the field of wage collective bargaining if the doors of negotiation were closed to the employees whenever they sought to bargain for a larger share of the company's profits."

With those sentiments, the labor members of the Board had no difficulty concurring. But the industry members argued that the Board should have taken into account the fact that the workers involved were living in an area where the cost of living was lower than average. They did not quarrel with the idea that company profits were a factor to be considered. "The question of how much profit an institution is making," they said, "should not be used to determine what a fair wage is, but only to determine the ability to pay the fair wage that has been decided upon."

Fundamentally, though, industry had no fear of a principle that would make wage increases hang on a good profit showing by the company. Business foresaw the day when armor-skinned Leon Henderson would really go places with his price control schemes. That would be certain to bring systematic wage control, though Henderson himself was pretty vague about wages. In those days he was still saying that "the competition of price, the bargaining processes between employer and employee, the available profits, the ceilings we set on certain commodities, and most important, the pressure of public opinion against overreaching by any part of the community, all tend to limit the unjustified wage increases."[3] But that phase was bound to pass as labor shortage increased. Furthermore, the very idea of taking profits into account meant that if a price ceiling limited profits, wages would have to be kept in check too. When the United Electrical and Radio Workers tried to correct inequalities in wages, the Board protected the company against too great an increase on the ground that "the price freezing orders of the Price Administration would prevent adjustment of its income to any such wage increase." But if the OPA were to raise the ceiling, the WLB added, the union could negotiate for more.[4]

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[2] Aluminum Company of America, 1 War Labor Reports 7, decided February 10, 1942.

From industry's standpoint, the test of "ability to pay" was a safeguard. If it could afford to pay, it would. Business prospects looked rosy. The wheels of American industry were already whirling with dizzying speed and the smokestacks were blackening the skies as never before. Labor, though frowning at the pay-window, had agreed not to strike.

But the WLB had to impose restraints. Not least among war's consequences is the fact that it requires a reduction in the standard of living. Nonmilitary items had to be pushed out of production to clear the assembly lines for guns, shells, tanks, uniforms, though America's civilian economy hardly suffered in the end. If labor were free to collect and spend high earnings, there would be too many dollars loose in the land, chasing a limited amount of goods. Inevitably prices would go up under the pressure of the hunt. Mounting wages would push up costs of production and thus raise government expenditures which ultimately must be paid by the people. Some agency had to halt the process, and the WLB was the natural one for the assignment.

To keep the inflation genie safely bottled up, the WLB ultimately concluded that wage considerations must be divorced from both profits and cost of living. If a pay raise threatened to pour too many dollars into the market, the company's increased profits could not be allowed to justify it; conversely, if a wage increase were dictated by the minimal demands of decency, the employer's "inability to pay" would not be taken into account.

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[3] Quoted in *Your Business Goes to War* by Leo M. Cherne, Houghton Mifflin Company, Boston, 1942, page 302.

[4] Walker-Turner Co., 1 War Labor Reports 101, decided April 10, 1942.

The basic economic fact behind the WLB's wage policy was the growing scarcity of labor. Local draft boards were competing with employers for the available manpower. America was now faced by a lack, instead of a surplus, of hands. The limited ingenuity of the economist turned back to the technique that was used in England in the fourteenth century when the Black Plague killed off a goodly portion of the working population. Then the first Statute of Labourers was enacted, fixing wage ceilings enforced by imprisonment of any master who paid more and any worker who accepted it. In Queen Elizabeth's day, the Statute of Apprentices set similar ceilings, except that in keeping with the times, the offending employer was jailed for ten days while the worker was sentenced to 21. Wage-fixing was the consequence of labor shortage.

Labor itself was aware that some control would have to be exercised over payrolls. But it didn't want ceilings, and it was afraid they were coming. Once more, as in the case of the no-strike pledge, it seemed wiser to do voluntarily on its own terms what it would otherwise have to do under compulsion and on somebody else's terms. The AFL's Executive Council proposed that wage increases be paid "in whole or in part in a special series of war bonds not convertible into cash until after the war, except in distress situations." CIO unions made similar suggestions.

Knowing the dangerous potentialities in the charge that organized workers were holding up the nation for more money in a time of crisis, both the AFL and the CIO formally agreed to waive the premium-pay clauses in their existing contracts. The usual union practice had been to require double pay for work on Sundays and holidays. The unions gave it up. As the CIO explained: "The policy of premium payments for work performed on Saturdays, Sundays and holidays in peacetime has been based on the desirability of discouraging such work in favor of spreading employment. The prime need of the nation in the present war emergency is not so much the spread of employment as the most effective organization of industrial processes for quick production." But the competition between unions put those who accepted the pledge at a disadvantage, and six months later, on September 9, 1942, the President issued Executive Order 9240 strictly defining permissible premium payments for work done on holidays and the sixth or seventh consecutive days of the week.

At the outset of the war economy, the unions made it clear that their purpose was to keep wages on an even keel with the rising cost of living. At first, the Board was agreeable. In March, 1942, CIO workers in the Bower Roller Bearing Company contended that the figures of the Bureau of Labor Statistics showed an increased cost of living in their area. A unanimous Board not only approved higher wages but also undertook to guess how much the cost of living would rise during the life of the union contract and granted "at least a partial compensation for the anticipated increase in living costs." The company's profits were high and the industry members of the Board did not dissent.[5]

The Board was not interested then in keeping wages down. Three weeks after its establishment it had received a mandate from Congress, expressed in the Emergency Price Control Act: "It shall be the policy of those departments and agencies of the government dealing with wages, within the limits of their authority and jurisdiction to work toward a stabilization of prices and cost of production." But this was no order to halt pay raises. Not until the Office of Price Administration introduced its general price freeze in May did control of wages as a cost of production really get under way. Then the WLB threw overboard the whole notion that wages must keep step with living costs.

WLB members knew that the American wage structure was a haphazard, illogical, inequitable ladder of pay rates, hardly corresponding to the risks of the occupation, the disagreeableness of the task, or the skill required for its performance. Wage levels in given industries were fixed by the accidents of the labor market, the financial soundness and generosity of the employer, the competitive conditions in the industry, the degree of unionization, the geographical location—adding up to a helter-skelter of pay schedules. Under these circumstances a wage-freeze was out of the question, since it would mean perpetuation by government fiat of demoralizing production conditions.

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[5] Bower Roller Bearing Co., 1 War Labor Reports 61, decided March 12, 1942.

In April, 1942, the Board started out cautiously on what was to become the permanent wartime wage policy. The employees of the International Harvester Company had asked for an increase. Only part of it was granted. The Board said: "To the extent that it can be done without inflationary effects, labor should be encouraged to negotiate through the processes of collective bargaining for fair and reasonable upward wage adjustments as an offset against increases in the cost of living." But it also struck a note that was eventually to become dominant: "This does not mean that labor can expect to receive throughout the war upward changes in its wage structure which will enable it to keep pace with upward changes in the cost of living." [6]

Less than two weeks after this decision, President Roosevelt sent a message to Congress outlining seven steps to prevent the spiraling of the cost of living and the development of inflation. He called for limitations on profits, ceilings on consumers' and manufacturers' prices, stabilization of wages and salaries, stabilization of farm prices, the purchasing of war bonds, the resort to rationing, and the reduction of credit buying coupled with the paying off of debts and mortgages. He added that legislation did not then seem necessary in regard to the third point, wage stabilization, but urged that "wages in general can and should be kept at existing levels." That closed the first chapter of the Board's wage policy.

The change came dramatically in a situation involving the men whose job was to build "the bridge of ships" to the fighting fronts. The shipyard workers had been farsighted in their prewar wage negotiations and had included in their contract an "escalator clause" providing that rates were to go up as the Bureau of Labor Statistics reported rises in living costs. In May the WLB called a Shipbuilding Wage Stabilization Conference in Chicago at which its representatives pleaded for a voluntary surrender of the increase that had come due. Because the men were adamant, the Board appealed to the President to use his great prestige and influence with the workers. On

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[6] International Harvester Co., 1 War Labor Reports 112, decided April 15, 1942.

May 2 he wired the conference, promising that the cost of living would be held in check and noting that "the full percentage wage increase for which contracts call and to which by the letter of the law you are entitled, is irreconcilable with the national policy to control the cost of living." It did the trick. On May 17 the union representatives agreed to give up half of the 13 percent increase. The next day they cursed and swore like shipyard workers when they read the front-page story in the *New York Times* which emphasized that "virtually the entire added cost will be carried by the taxpayers . . . because the shipyards pass on their costs to the government."

Regretfully labor watched the lid coming down on wages. But union leaders were not yet ready to face the inevitability of wage control. Jointly the AFL and the CIO presented their objections to the President in anticipation of the WLB wage rulings that would soon have to be made in a series of important cases. The workers in the Little Steel companies were awaiting an impending Board decision. The OPA was energetically resisting the raises, concerned about the effect on the all-important steel prices. In aircraft too, Leon Henderson, backed up by Army and Navy officials, was asking for a five percent limit on increases, but the War Production Board, the War Manpower Commission, and the Department of Labor were standing by the AFL and the CIO.

Labor was more distressed by the thought of dollars to be lost than by any philosophical fear that wage control meant cutting out a huge slice of the meat on which collective bargaining feeds. Back in 1941, Henderson had appraised the situation frankly. "I am not blinking at the fact," he told a Congressional Committee, "that as we get forward in the program, the program will limit what wages can be, and thus take it out of the area of collective bargaining."[7] With every move that was made to set a national wage policy, labor was losing the right to make its customary demands on management.

The big blow came in July, 1942, with the wage formula that emerged from the WLB's decision in the Little Steel case.[8] The WLB, emphasizing the union's acceptance of the President's seven-point program, turned down the steelworkers' demand for a dollar-a-day increase to compensate for rising living costs. The labor members of the Board, however, assailed the decision in an acid dissent, contending that the Board's own specially appointed investigating panel had demonstrated the merit of the union's position. Using the panel's findings of fact, they argued that the steelworkers' buying power had decreased more than 13 percent because of higher living costs, that the companies could afford to pay, and that payment could be made in "blocked bonds," redeemable only after the inflation danger was over. "The panel finds," they said, "that if a wage increase, otherwise proper, is withheld because of its effect on governmental revenue per se, such withholding would involve an unauthorized tax on the workers."

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[7] *New York Times*, August 8, 1941.

[8] Little Steel Companies, 1 War Labor Reports 325, decided July 16, 1942.

Summarizing the labor view, they concluded that "the Board has acted, as the chairman points out, on the assumption that the cost of living will now be stabilized. Obviously and incontestably, now means—at the expense of the workers. To single out the workers for such discriminatory treatment is to risk a serious blow to their morale and thereby dangerously to undermine the war effort."

But the Board laid down its fundamental policy in the light of the race between wages and living costs which had been on for some time, since January, 1941. By May, 1942, the cost of living had risen about 15 percent higher than the January, 1941, level. So far as general increases were concerned, labor would be allowed 15 percent and no more. Workers who hadn't gotten such raises could get them—up to 15 percent.

But there was more to stabilization than a wage ceiling. Inequitable wage structures could be corrected. That gave the unions some leeway, and they promptly set about ironing out the inequalities between workers in the same plant and workers in competing plants.

In addition, the Board could raise substandard pay. The Wage-Hour Law, by fixing 25 cents an hour as the minimum, which was ultimately raised to 40 cents, had placed the first floor under wages. When full-blown stabilization came and living costs continued to rise, the Board adopted different rules for "voluntary cases," those in which the employer himself took the initiative, and "dispute cases" in which the employer resisted the union's demands.

The Board permitted employers voluntarily to raise wages to 50 cents an hour and later to 55 cents, but it did not always order those rates against employer opposition. Even before wage stabilization had gotten under way, the Board had taken the stand that industry, regardless of its financial position, must pay "the so-called American wage of health and decency" or go out of business—otherwise the workers would be compelled "to carry the financial burden of such an industry on their shoulders to the extent of the difference between a substandard wage and a living wage."[9] In the long run, this attitude of the Board was to be modified, as war required that the marginal industries be kept in production too. For example, in 1945, over the protests of the industry, the cotton textile workers got a 55-cent minimum from an embarrassed Board which said through its chairman: "All carefully developed budgetary studies show the need for a minimum hourly rate higher than we have ordered in this case, but the Board must use its best judgment as to the extent to which substandards of living in dispute cases can be corrected without creating unstable employment conditions."[10]

More and more, the Board began to examine the common pay practices in the country, industry by industry. It studied the data showing what the employer in the case before it was paying in comparison with the prevailing rates in all industries throughout his locality. Labor's wages did not stand still, but neither did they run away.

At the time the Little Steel Formula was adopted, the Board had no power over individual increases. An employer could decide to give his workers voluntary or negotiated increases; but the unions were helpless under the Little Steel Formula to demand raises where the employer was obdurate. Eventually, limits were to be put on all workers. As the cost of living continued to climb, the President asked Congress on September 7, 1942, for a stabilization act, amending the price control law. "If the cost of living goes up as fast as it is threatening to do in the immediate future," he said, "it will be unjust, in fact impossible, to deny workers rises in wages which would meet at least a part of that increase." Congress gave him the powers he asked for, though it took Leon Henderson's head in exchange. On October 2, the Wage Stabilization Act became law.

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[9] Aluminum Company of America, 1 War Labor Reports 7, decided February 10, 1942.

[10] Twenty-three Southern Cotton Textile Companies, 21 War Labor Reports 793, decided February 20, 1945. The statement quoted is from Chairman Davis's press release of February 21, 1945, WLB Release No. B–1963.

Voluntary increases, too, went under control. Employers discovered that the wage stabilization program had teeth in it. Criminal penalties, fines up to $1,000, and imprisonment up to a year, could be imposed on offenders. More important, the WLB could virtually pass a death sentence on the business itself by getting the Treasury to disallow for tax purposes or cost computations on government contracts *all* sums paid to workers whose wages had been illegally raised. This proved to be the major enforcement weapon against overgenerous employers. Some firms found themselves penalized to the tune of $100,000. By the end of January, 1945, the WLB had reported 1,527 companies to the Bureau of Internal Revenue. The amount of wages disregarded as business costs in those cases came to a total of $4,533,650.[11]

The key rule, laid down in Executive Order 9250, was that the Board would not approve any increase in the pay rates prevailing on September 15, 1942—except to correct maladjustments or inequalities, to eliminate substandards of living, to correct gross inequities, or to aid in the effective prosecution of the war. If the workers had not gotten their 15 percent since January, 1941, their case could be considered a "maladjustment."

But prices continued to rise. More and more labor chafed under the braces put on it by the stabilization program, despite the fact that weekly earnings were going up. Take-home pay was mounting; labor was working longer hours and getting time and a half for those over 40; incentive plans were adding to the pay envelope. Workers were being promoted to higher skills, were being reclassified and pushed into higher-paying brackets.

Yet labor was resentful as it looked at rising profits and the success with which business smashed the absolute ceiling imposed on the big salaries. At the same time that stabilization was firmly clamped on wages, the President put a top limit of

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[11] Report of WLB's General Counsel, Jesse Freidin, WLB Release No. B–2001, dated March 21, 1945.

$25,000 on salaries. Industry reacted immediately. Businessmen talked of their inability to meet their personal commitments and denounced the President's action as unauthorized by the stabilization act. The Administration had not proceeded as thoughtfully in relation to the salary ceiling as it had in relation to wages. For weeks after the issuance of the salary order, there was uncertainty as to whether the President meant $25,000 before taxes or after taxes. When it was finally cleared up, the ceiling turned out to be $67,200 a year which would leave the business executive with $25,000 clear after the tax collector got his.

Tempers flared in the public debate. There was little reference to the boys in the fox-holes, a reminder considered relevant whenever labor unions asked for increases or expressed discontent with the wage controls. No one was heard to contrast the $50 a month of the doughboy with the paychecks of the executive. By a vote of 268 to 129 the House of Representatives set aside the limitation. In the Senate there were only three votes for maintaining the ceiling at $67,200. Corporations could pay their executives high salaries, limited only by the requirement that they must not exceed the highest level between January 1 and September 15, 1942, unless they obtained the approval of the Treasury's Salary Stabilization Unit.

Then, on April 8, 1943, the President issued his dramatic "Hold-the-Line" Order. The forces of inflation could not be allowed to break through, and for that purpose the President instructed the OPA to show more iron in meeting demands for price increases and to keep price relief down "to the minimum extent required by law." The WLB was instructed to stand by the Little Steel Formula. Adjustments to correct substandard conditions could still be made, but the Board was now deprived of the power to correct interplant inequities. That meant that workers in neighboring plants could be paid different wages even though they were doing the same kind of work. The unions balked. They had fought through the years to win "equal pay for equal work," had even succeeded in having it applied for the protection of women war workers who were streaming into the plants in answer to the patriotic appeals of the War Manpower Commission. The President had stiffened the entire line, but the salient opposite labor looked stronger than any other.

Labor came out of its corner fighting mad. It was bad enough that inequities did exist—were they now to be sanctified by government? Under the "Hold-the-Line" Order, even if a union had the economic power to rectify an admitted inequity, the government was prepared to step in and block the change.

Labor's complaint was effective. The WLB agreed that it was improper to freeze such inequities in the wage structure and persuaded the Economic Stabilization Director—whom the President had given final authority over the Board and the OPA—to let down a little. "For the maintenance of production efficiency" the Board was authorized to correct inequitable wages that were not in line with the going rates in the community. If the resulting increase in labor cost made it necessary to raise prices, WLB orders could become effective only after the Stabilization Director had given his nod of approval.

Government had backed down, but there was little dignity to its retreat. The President had issued an Executive Order on April 8 forbidding the correction of inequities; on May 12 the Economic Stabilizer, prodded by the WLB, had revised the President's order without bothering to have it amended. Expediency and necessity, not law, were shaping the economy. General objectives had been laid down, to be whittled at from time to time, modified on occasion, or even disregarded—depending on the power of the parties before the Board. But in the long run, the general line would be held on wages. "We all must be prepared in total war to accept a substantial cut in our accustomed standards of living," the President had said.

Nevertheless, the cost of living continued to inch up, and with it the temperature of the unions. Labor watched the OPA handing out price relief, pored over the cost-of-living figures of the Bureau of Labor Statistics. Again labor demanded that wages keep step with prices.

A rollback of prices was tried to bring living costs back into line. Subsidies were introduced to help keep food prices down, and a Congressional ban on the use of such government money ran into a presidential veto which could not be overridden. But the unions were not satisfied. Retail stores were proving too difficult for the OPA to handle and violations of the reduced ceilings were rampant. The black market was spreading over the country, and the unions did not hide the fact that their members were customers. When Lewis's coal miners struck for portal-to-portal pay, through which they finally succeeded in outflanking the Little Steel Formula, they rested their case on the OPA's futility. Lewis, with his usual bombast, sneered publicly at "the feeble results" that came "from the fanatical cry of the leaders of the CIO and the AFL to roll back prices in America. Well, they have been rolled, all right, but they did not roll back. They rolled on and rolled over these intellectual pint pots who thought that the waves of the sea could be brushed back by the passage of a resolution or a petition to the Great White Father."

Sidney Hillman told the President that labor dissatisfaction with the Formula was "practically unanimous." From the president of the Brotherhood of Railway Trainmen, Alexander F. Whitney, came the statement: "I wonder if we have not been sitting frozen, hypnotized, watching for the seven rabbits of the President's economic program to be pulled out of the silk hats of the war agency administrators, while our purses were being sneaked from our pockets."

Board Chairman Davis himself, in a letter to Vice-President Henry Wallace, expressed alarm: "As the months flow by and the Board continues to hold wages to the general level of September 15, 1942, we become increasingly conscious of the fact that we are asking one segment of our society to do its part to protect all Americans from the ravages of inflation, while, at the same time, a similar obligation has not been placed as heavily upon the shoulders of some of the other segments of this society." As he explained later, he did not mean that wages should therefore be permitted to rise but rather that prices ought to be brought down.[12]

When the Price Control Act which also provided for the wage stabilization program came up in 1944 for renewal by Congress, the three main labor bodies, the AFL, the CIO, and the Railroad Brotherhoods, submitted a joint statement in which they declared: "A restoration of the relationships between prices and wages which existed September 15, 1942, is absolutely essential to make the law work equitably and build the morale of American workers to the highest degree of efficiency." Philip Murray told the Senate Banking and Currency Committee that the Little Steel Formula was "so unworkable in itself that it has created throughout the United States more discomfort and more confusion and more misunderstanding in American industry than anything of which I know."

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[12] Davis's letter was dated November 5, 1943; his explanation was made in a press conference on November 10, reported in WLB Release No. B–1106.

Senator Taft inquired if the CIO leader wanted Congress to make any changes in the wage provisions. "We do not ask for any amendments whatever," was Murray's answer. Labor was not asking Congress for anything on wages. A presidential election year lay ahead and the unions preferred to look to the President. That one vote, it figured, was all it needed.

Despite the Board's continued reiteration of the Little Steel Formula, case after case was coming up involving demands by AFL and CIO unions for general increases greater than the Formula allowed. The clamor came from workers in the steel mills and the railroads, from employees in General Motors, General Electric, Westinghouse, from telephone operators, packinghouse, aluminum, and glass workers. Now the two wings of the labor movement were elbowing each other in the effort to win the glory of breaking the Formula.

Under the impact of war, everybody had become an economist and a statistician. Joining forces, the AFL and the CIO hurled a direct challenge at the accuracy of the official cost-of-living figures tabulated regularly by the Bureau of Labor Statistics. By the end of 1943, the Bureau had reported a rise of 23.4 percent in the index since January, 1941, but labor claimed the increase was really 43.5 percent.[13] On the recommendation of the Board, Roosevelt appointed a commission to review the BLS findings.

Labor set out to make a case against the Little Steel Formula. Its spokesmen charged that the Bureau of Labor Statistics was using prewar yardsticks in measuring living costs and had not taken into account the changes that war had brought in the national economy. In support, they cited the findings of the American Statistical Association which had reviewed the BLS standards. They pointed out that the quality of goods had deteriorated so that workers had to spend more money on replacement of clothing, for example. Food scarcities had compelled workers to buy whatever was available, even if it was more expensive. Cheap commodities had been dropped by many manufacturers who preferred to use their limited supply of materials to make higher-cost goods. Then too, the OPA was still unsuccessful in its retail enforcement efforts, and the workers were caught between the black market of illegal prices and the grey market of adulterated quality.

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[13] *Recommended Report for the Presidential Committee on the Cost of Living* by George Meany and R. J. Thomas, submitted January 25, 1944.

The findings of the President's Commission on Cost of Living gave little comfort to the unions. The claim that living costs had risen 43.5 percent since January, 1941, was denied by the panel of economists who figured the maximum rise at something like 29 percent after allowing for the new factors that labor had indicated.

Labor had chosen to fight with the weapons of statistical tables, graphs, and indices, and had lost. It sounded demagogic when Philip Murray, in a flare of temper, told the American Academy of Political and Social Science that he was not relying on the reports of the experts but on "the best economist in the country—the American housewife." Murray was only blurting out the pressure he was under. In previous years, labor leaders feared the wives behind their members as a brake on the men's willingness to strike. Now the women were the sharpest goad to action. The public found it hard to understand how workers could walk out of the mines and mills while their own boys were bleeding on Guadalcanal or a Normandy beachhead. The answer was that the statistics, though accurate, did not always describe the individual lives of the specific workers involved. The cost-of-living figures were averages—they explained why the average worker did not strike. But the figures were not descriptive at all of hundreds of thousands who were only fractions in the charts or decimals in the tables.

Yet it was sheer obscurantism to label the findings of the economists as academic. They were not. The reports were genuinely useful in showing what had occurred in broad areas, but they did not always reveal what was happening in given localities and industries. Nor did they reflect the fact—which labor also ignored—that the unorganized workers, particularly the white collar workers, had not shared in the increases that were possible even under wage stabilization. Without unions to take their pleas to the Board, with no guidance through the maze of forms, regulations, and general orders, their position was hopeless, except as economic pressures allowed wages generally to crawl after the higher union rates. In the past, the wages of the unorganized always rose fractionally as the organized workers got more. That trend still continued, but the gap was being greatly widened between the earnings of the union members and the nonunionized. Furthermore, insofar as union increases were siphoned into the market and pushed up prices, the unorganized took a beating. Will Davis told the newspapermen in press conferences that every time wages chased prices around the barn, the fixed-income groups got kicked in the process.

The war had ended depression for the working population, but it had not brought universal prosperity. Two-thirds of the population were still earning less than $3,000 a year, said the Department of Commerce. The Wage-Hour Administrator reported in October, 1944, on the sixth anniversary of the Fair Labor Standards Act, that more than four million workers were still being paid less than 40 cents an hour, about three million between 40 and 50 cents, another three million from 50 to 60. In other words, ten million workers—one-third of all those outside of agriculture and domestic service—were getting less than $24 for a 40-hour week.[14]

Judged by prewar standards, organized labor was doing fairly well. The unemployed had found jobs, hourly rates had risen under the Formula, take-home was high. In the disputes over wage stabilization, the issue seemed to revolve primarily around the relationship between wages and cost of living. But critics of the program pointed out that a comparison between hourly rates and the cost-of-living index—the underlying principle of Little Steel—logically led to no conclusion. If the purpose was to determine how well the worker was being paid in relation to his living costs, take-home pay was the only proper standard since it determined what the wage-earner would be able to buy.

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[14] Wage-Hour Division Release No. PR–52, dated October 22, 1944.

Labor answered that higher take-home was due to more work and greater output. In this argument, its most eloquent spokesman was none other than the chairman of the War Labor Board himself. Davis had pointed out that the stabilization structure was intended to "stabilize the price of labor and the price of the things that labor buys. Now the price of labor is the amount you pay in wages for a measured quantity of labor, isn't it? And generally speaking it is the hourly wage. The hourly wage is the price of labor, and that is what the War Labor Board uses. After all, I say, eggs are 50 cents a dozen. If I go and buy two dozen eggs, I have spent a dollar. But that doesn't change the price of eggs. And if I say that the rate of wages is a dollar an hour and I buy two dollars worth of work, I pay two dollars for it." [15]

But judged by what labor wanted—a greater share in the national income—it was a long way from home plate. Like business, it was feeling the sharp edge of war from another direction—taxation. Whenever industry's profits during wartime were subjected to scrutiny, there was always emphasis on the effect of taxation, much more than one would gather from the *New York Times*' reminder: "Every newspaper reader probably has his favorite recurrent item. Every new appearance sets his pulses beating like the poet's when he beheld a rainbow in the sky. For some of us it is the exciting two words, 'before taxes.' The world is full of such time-bomb or sudden-afterthought phrases. . . . If a person insists on thinking in figures it doesn't seem altogether fair to shout $27,000,000 to draw a crowd and then to bring it down to $1,500,000 in a still small voice which very few people in the crowd will catch. It isn't quite fair and it isn't at all necessary." But in connection with labor's earnings, the still small voice was almost never heard. Labor's contribution to the Treasury was overlooked. Calculations rarely included the withholding taxes, the social security deductions, the ten percent war bond purchases.

Corporate profits had gone up considerably—from $4,800,000,000 in 1940 to $10,000,000,000 in 1944—after taxes. The average weekly take-home of factory workers had risen in the same period from $25.20 to $46.00—a yearly income of $2,392.[16] Labor pointed to the over-all profit statistics which did not always reflect the position of the individual employer. Labor recalled that the President's seven-point program had provided for limitation of profits by heavy taxation, that the Senate had cheered itself hoarse when the Administration's own floor leader led the fight to override the presidential veto of the tax bill of 1944 and that Roosevelt had characterized it as "relief not for the needy but for the greedy." They quoted Price Administrator Bowles' statement that the OPA put no ceiling on profits: "On the contrary, its pricing standards safeguard industry earnings by establishing what is, in effect, a floor for profits."[17]

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[15] Press conference of November 10, 1943, WLB Release No. B–1106.

Furthermore, labor argued, while business was more heavily taxed than ever before, it was nevertheless in line for ten percent postwar refunds on the excess profits taxes paid since 1941, in addition to tax rebates under the "carry-back" provisions. But there was no postwar guarantee to protect the workers' wages, nothing comparable to the parity program that protected farmers' prices.

Against this background, the unions set up their program. From the time the Little Steel Formula was first applied in the middle of 1942 until shortly before President Roosevelt's death, labor and business both were convinced that the Formula would either be abandoned or revised upward to allow more than 15 percent. Labor's hopes and management's fears were not realized. Eventually it became clear that only after the war was over would the wage policy be overhauled. Labor turned to new demands. If it could not break through the Formula, it would try to outflank it by asking for new gains.

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[16] Data taken from charts specially prepared by OPA Administrator Chester Bowles, published in Hearings before the Committee on Banking and Currency, United States Senate, 79th Congress, 1st Session, on S.J. Res. 30, pages 720 and 723.

[17] Ibid., page 122.

CHAPTER VII

WHOSE BUSINESS IS IT?—MANAGEMENT'S RIGHTS

When the National Labor Relations Board certified the United Retail, Wholesale and Department Store Employees as the bargaining representative at Montgomery Ward, Sewell Avery invited Samuel Wolchok, the union president, to visit him. The two met in Avery's office, but it can hardly be said that they got together. In every respect they are poles apart. The merchant is very much the merchant—gracious, dignified, seemingly austere; his high grey forehead thoughtful; his manner polished; his bearing restrained. The union leader is very much the union leader—dark, heavy-set, and heavy-featured, aggressive and passionate in pursuing his cause, his face literally scarred in the labor battles he has fought. The meeting was friendly enough at the outset. Avery met his opponent with an almost old-world courtliness to which Wolchok, himself a product of the old world, responded in kind.

In the hour and a half they spent together, they came to verbal blows. In one sentence, Avery finally stated his attitude: "No outsider is going to run my business!"

"You know, Mr. Avery," said Wolchok, "your workers think you are a slave driver."

Both men had summed up their positions. To Avery, as to most employers, the presence of a union in his establishment meant that outsiders had taken over his domain. To Wolchok, the absence of a union meant that the workers had no voice in their own economic destiny and were virtually slaves.[1] When picket lines formed outside Ward stores and offices, the union members carried signs merging the big boss's initials with his name to read "SL avery."

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[1] The conference between Wolchok and Avery was described in the former's testimony before the Congressional Committee investigating the seizure of Wards, pages 481 and 501.

As long as private enterprise exists, businessmen will resist encroachments on their managerial prerogatives. Last-ditch fighter that he is, Avery refused to accept the principle of arbitration of grievances by an impartial third party, a technique which most employers now welcome for the settlement of minor disputes. As the final step in grievance procedure, Avery insisted that the president of the company alone should render the decision. Montgomery Ward explained its position to Wolchok as follows: "The union acts on the theory that there is a conflict of interest between the workers and the management. We believe that the interests of the workers and the management are identical." [2]

But Avery's workers were not content with that. Their organization, like every other union, presupposed a difference of interest between management and labor. Implicit in the concept of collective bargaining is the idea of conflict. In any bargaining transaction, the parties stand at arm's length, each seeking advantage at the expense of the other. Ultimately, of course, the bargain is concluded because each derives some benefit for himself. The merchant and the customer have contrary interests in the price, but both emerge with the satisfaction, at least partial, of a desire. The employer and the worker have contrary interests in the pay envelope, though they arrive at final agreement for the sake of production, profit, and wages. The whole structure of modern labor relations is based on an acceptance of the conflict—so much so that the employer is strictly forbidden to tamper with the selection of the workers' bargaining representative. The principle is now so clearly embodied in the law that, come what may, it cannot be uprooted.

Most employers know that quite well and are ready to bow to the fact. What really concerns them is how far the workers intend to carry the idea of bargaining. There was a time when the unions loudly protested that they had no designs on management's rights and privileges. Even today, many union leaders chant the litany that all they want is a "fair day's pay for a fair day's work." The founders of the American labor movement spent much of their energy fighting the socialists, anarchists, and Industrial Workers of the World who believed the workers ought to take "control of the machinery of production and distribution."

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[2] Ibid., page 488.

For decades, American Federation of Labor conventions were battlegrounds between the radicals and the "pure and simple" unionists, but the conservatives were victorious under the leadership of men like Samuel Gompers and William Green. In the CIO, too, there has been no expressed philosophy of labor control over industry. Today, the imprint of Gompersism appears on both wings of labor, indelibly written into the union contracts they have signed. John L. Lewis's union, too, has reiterated in many contracts that "the Mine Workers intend no intrusion upon the rights of management as heretofore practiced and understood."

Yet all of union history is the more or less unconscious and continuing encroachment by labor on functions which were originally the exclusive province of management. Time was when industry alone decided how many hours employees were to work, what they were to be paid, and the general physical conditions under which they were to operate. That day is long since gone.

When the Wagner Act was passed, employers saw in it an end to absolute control over their own businesses. The Act did in fact abrogate one of the traditional rights of management—to grant or withhold union recognition. Employers were compelled to bargain with the representatives of their employees, but more important, the Act put no limit on the subject matter of negotiation. Any issue arising out of the employer-employee relationship was proper for what the workers called "the long jaw," the collective bargaining conference.

In one of the National Labor Relations Board's early cases the problem came up directly in the form of union demands for the removal of certain persons from the company's board of directors. The situation had all the overtones of a radical civil war. Central figure in the scene was J. B. Matthews, at that time a wavering Communist but destined for fame as chief investigator of the Dies Committee. Matthews and others had organized a venture called Consumers' Research, Inc., whose purpose was to test the quality of products offered to the public and to report on their relative merits. The Communists, eager to spread their influence among consumers' groups, were interested. In the fight that followed, the company resorted to discriminatory discharges, refused to bargain with the employees' organization, and attempted to discourage membership in it.

Enforcing the Wagner Act, the Board duly found Consumers' Research guilty of unfair labor practices, ordered the reinstatement of the discharged employees with back pay, and instructed the management to bargain.[3] The Board's decision referred to the company's charge that the whole dispute was simply the culmination of a plot to capture control, though the opinion diffidently abstained from any reference to the Communists. The Board explained that it

> "has no power under the Act to decide upon the subject matter of substantive terms of a union agreement. For this reason attempted seizure of control through the medium of collective bargaining negotiations is not within the cognizance of the Board. Again, highly improbable as it is to say that a union might be able to effect a change of management by means of the collective bargaining machinery of the Act, a union could never seize control unless such 'seizure' were acquiesced in by the employer. By the Act, the terms of agreement are left to the parties themselves; the Board may decide whether collective bargaining negotiations took place, but it may not decide what should or should not have been included in the union contract. . . . The demand for Palmer's reinstatement to the Board [of Directors], and for the removal from the Board of Mrs. Schlink and Matthews, was plainly a subject for future negotiations. . . . We conclude from the entire record that there was no attempt by the union to seize control of the organization; that the record persuasively indicates that the union was without power to seize control; and that in any event seizure of control through the mechanism of collective bargaining is outside the scope of the Board's jurisdiction."

In effect, the NLRB ruled that the area of collective bargaining was wide open, that no subject was barred in negotiations —not even the composition of the company's board of directors.

But the War Labor Board, when it came into being, took a completely different stand. Its function was not limited to compelling employers to bargain with unions. It was responsible for actually settling the controversies, writing the very language of the contracts. The War Labor Disputes (Smith-Connally) Act gave the WLB the power "to decide the dispute and provide by order the wages and hours and all other terms and conditions (customarily included in collective bargaining agreements) governing the relations between the parties" and to "provide for terms and conditions to govern relations between the parties which shall be fair and equitable to employer and employee under all the circumstances of the case." Its authority went far beyond that of the National Labor Relations Board.

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[3] Consumers' Research, Inc., 2 NLRB 57, decided July 7, 1936.

The WLB, however, was very reluctant to enter into any of the new demands that labor sought to raise in the collective bargaining process. Again and again, the unions came to it after negotiations broke up on issues which management insisted were purely within its own authority to grant or deny as it saw fit. All kinds of "social welfare" schemes—health insurance, company-financed unemployment funds, hospitalization, paid sick leave, even maternity and pregnancy benefits—were sought. Invariably the Board renewed such provisions where they existed in previous contracts but denied them if they were newly sought, ruling that the introduction of such measures was wholly a management prerogative.

Since the area of wage gains that labor unions might win had been sharply narrowed by the Board, the unions concentrated on demands which would not conflict with the anti-inflation program. Because it was awkward to rule that these matters were not properly "subjects for collective bargaining," the Board relieved itself of embarrassment by referring the issues back to the parties for further negotiation. Actually, its refusal to decide made it impossible for the unions to bargain on those matters altogether. Since the strike weapon had been put in cold storage, the issues remained in an economic no man's land which the Board would not enter and which labor could not invade because it had no persuasive power. In this region of disputed issues, the employers' only obligation was to negotiate before saying no.

Collective bargaining is a reality only if each party approaches the issue with an awareness of strength in the other. In most cases, bargaining is concluded without unsheathing the sword only because the parties tacitly recognize what the outcome would be if the duel were concluded on the picket lines. When this balancing of relative force was upset by the no-strike pledge, negotiations tended to become a mere analysis of what the WLB would do in the event it was called on to decide the issues; more often, to the discomfort of the WLB, the parties rushed right off to the Board. In one case involving aircraft production, 93 separate issues were taken to the Board which promptly sent the whole dispute back to the parties on the ground that they had obviously made no attempt to negotiate.[4] Narrow the issues to real points of disagreement, said the Board, and we will examine the case.

If the parties could not agree, collective bargaining was supplanted by compulsory arbitration. That was the general rule. But when the WLB refused to pass on "social welfare" issues raised in negotiations, the unions faced a void in which no agency or instrument could be used. They protested that the WLB had no right to refuse to hear and decide such issues and reminded the Board that the no-strike, no-lockout "agreement" was conditioned on the submission of "all disputes" to the Board. Nevertheless, another area of collective bargaining was knocked out.

Far from stopping the unions, though, the situation merely emphasized the large and fertile field that labor had only begun to explore. Union leaders had to persuade their following that membership still paid dividends. Even John L. Lewis, who used to sneer at the "social service" gains other union leaders tried to wrest from employers, picked up the idea of a "royalty" of ten cents on every ton of coal mined, to be paid into the union treasury for medical service, hospitalization, rehabilitation, and general economic protection. In 1945 Lewis called it "partial compensation and equity to the mine worker for the establishment and maintenance of his ready-to-serve status." His flair for the dramatic made it seem like a novelty in labor relations, particularly since everybody was expecting him to head straight for a collision with the Little Steel Formula. In reality, Lewis was only adapting to the coal fields a concept that had been germinating for some time.

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[4] Resolution of the War Labor Board, Release No. B–1988, dated March 5, 1945.

A number of unions, notably the International Ladies Garment Workers, had been operating a similar arrangement for years. Employers were compelled in straight collective bargaining to contribute to a union health and vacation fund, the regular monthly payments being keyed to a definite percentage of payroll, instead of production as Lewis proposed. When the ILGWU did it, the achievement was hailed as "labor statesmanship" demonstrating union responsibility and respectability. But when the American Federation of Musicians applied the technique to the recording companies, a storm broke. Its highly unpopular president, James C. Petrillo, was asking that the industry pay royalties on phonograph discs into an unemployment fund for the benefit of union members displaced by technological change.

Petrillo had no claim to general public confidence, nor is he likely ever to enjoy beatification as a labor saint. He has attempted to dominate the field of music-making without regard to the interests of the listening public, even to the point of crowding young musical amateurs off the air. Concerned solely with his own members, he has waved a marshal's baton over the musical world. A specialist in offensiveness, his rapacity has made organized labor itself writhe with anguish. Because of his personality and the practices in which he and his union engage, he was the worst possible protagonist in a fight between labor and the WLB. The unions themselves would have preferred to see anybody else cast for the leading role. But Petrillo was on the Board's calendar.

Long before there was a War Labor Board and a no-strike pledge, the musicians union had demanded a royalty on all records sold. Phonographs, talking movies, juke-boxes, radio, all the paraphernalia of mechanized music, had hit the musicians pretty hard. To protect his members against unemployment, Petrillo insisted that the employers ought to foot the bill since they were the beneficiaries of the technological advances in the industry. The employers refused, arguing in effect that they were being asked to accept a tax for the benefit of individuals who had never been in their employ. By the time the issue came up for resolution, America was at war.

In the normal course, the employers brought the case to the War Labor Board. But the sequence of events was not normal. Twice the WLB was called on to rule: the first time in connection with companies which had yielded and were willing to sign up, the second time in connection with companies that refused. In the first case, the issue was presented to the Board only for its judgment as to whether a pay increase beyond the permissible bounds of the Little Steel Formula was involved. The Board appointed a panel which explored the facts. It reported that the establishment of an unemployment fund was not a pay increase and recommended that the WLB approve the agreement. Fifty-nine companies signed up.

Two companies refused. They happened to be the two major companies in the field—the recording subsidiaries of the Radio Corporation of America and the Columbia Broadcasting System. These were powerful adversaries, but Petrillo was as tough as they were big. On August 1, 1942, members of the musicians union stopped making records and the issue was back before the War Labor Board on the ground that the boycott was a strike. Again the panel took testimony, concluding that the establishment of such funds was not "opposed to social policy" even though it was not a "customary" demand in collective bargaining. But, said the panel, and the WLB followed its recommendation, the Board should not order an employer to comply with such a provision. This was one of the demands which management, if it desired, could voluntarily grant; but since it fell within the management prerogative, the employers could reject it.[5]

"Where does it make sense for the men to go back to work for two companies when fifty-nine companies have agreed to our demands?" exclaimed Petrillo. "These two companies have been using the WLB as a club. If there were no WLB, they would have signed long ago. . . . How can the same panel express its approval of men going back to work with a contract and then ask us to go back to work without a contract?"[6]

Other unions, in a similar plight, asked the same question. The WLB would approve a voluntary concession by the employer; when management would not consent, the WLB would doff its hat respectfully to the management prerogative and reject the union demand.

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[5] Electrical Transcription Manufacturers, 16 War Labor Reports 369, decided June 15, 1944.

[6] *New York Times,* March 12, 1944.

Petrillo stood his ground. His members would not strike a key or blow a toot for RCA or Columbia records. Public opinion had little patience with the musicians. Even Bill Green was incensed. Curiously Green himself is a member of the musicians union. When John L. Lewis kicked him out of the United Mine Workers in retaliation for the expulsion of the CIO from the AFL, the musicians, with much trumpeting, had handed Green a membership card so that he might preserve his own status in the Federation and retain its presidency. Now even Green, the breath of public opinion on his neck, overcame his usual reluctance to criticize any AFL official and publicly condemned Petrillo for violating the no-strike pledge.

Unable to enforce its order the WLB turned to President Roosevelt as it had done in the case of Sewell Avery. With a surprising and, for him, rare insensitiveness to prevailing sentiment, the President announced that he was going to look up the law to see what could be done. He looked, he saw, and found what he had known all along: that the business of making recordings had nothing to do with the war effort and that no law applied. But on October 4, 1944, with all the dignity he could muster, he requested Petrillo to send his bands back to the recording microphones. Petrillo wouldn't budge.

The Administration was all thumbs. Elmer Davis, as head of the Office of War Information, had gone gunning for Petrillo on the ground that the lack of musical recordings was hurting the morale of the Army and Navy. According to the *New York Times,* Petrillo pounded the table for emphasis as he told the WLB, "I wrote to Elmer Davis and said we would make music for the juke boxes for the soldiers. But there ain't going to be no nickel in the juke box. If we play for free, the juke box guy ain't going to get a nickel."[7] In a telegram to the President more than a year later, however, Petrillo's advisers cleaned up his grammar. "During this entire controversy," he said, "we have made records and transcriptions for practically every governmental agency, for the armed forces of the United States and our Allies, in the overwhelming number of cases without any compensation, and we are continuing to do so."[8]

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[7] *New York Times,* July 10, 1943.

Newspaper editors went to work on the President for failing to carry Petrillo out of the musicians' union office. The *New York Times* suggested that "one has only to contrast this with the action of the Administration in the Montgomery Ward case, where noncompliance with a War Labor Board order was deemed so perilous to the war effort that Federal troops were instantly ordered in to seize the plant and remove the head of it bodily." The *New York Herald Tribune* offered Sewell Avery as "a bit of rosemary for remembrance."[9]

When the government took over Montgomery Ward for the second time, WLB Chairman Davis found it necessary to rush forward with the explanation that there was no parallel between the two cases. At the time the Board first referred the musicians' case to the President, he said, there was testimony that Petrillo's ban on recordings threatened to interfere with the war effort because small radio stations, a necessary part of the civilian warning network, depended on transcriptions to fill their programs. But by the time the White House was ready to act, almost all the companies had signed up with the union except for the big two. That, Davis explained, removed the threat to the war effort. The Petrillo case, he added, had no "epidemic possibilities" whereas the Ward case had inspired sympathetic strikes by fellow unionists in neighboring war plants.[10]

In the end, the companies came round and put their signatures on the dotted line, while the newspaper editorials described the music czar as more powerful than the government of the United States. Though Westbrook Pegler denounced him as a racketeer, the union leader took unction from the words of Gilbert E. Fuller, industry member of the WLB panel, who had written in his opinion: "Contrary to what seems to be the general impression, the American Federation of Musicians is, I believe, an honest union, with its accounts audited by one of the leading accounting firms in this country and its annual statements published. Its president, James C. Petrillo, while certainly in charge of his union, is no more so than the head of every well-run corporation is of his company."[11]

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[8] *New York Times,* October 11, 1944.

[9] *New York Times,* October 7, 1944; *New York Herald Tribune,* November 14, 1944.

[10] WLB Release No. B–1899, dated December 28, 1944.

But this tribute from one businessman to another did not mean that Mr. Fuller considered the union demands reasonable. He, like the other industry members of the panel, dissented strongly from the opinion of the majority who concluded that demands for employer-financed unemployment funds were not against "social policy." The economic interests of the workers in the industry were clearly at stake since the musicians had a direct concern with technological changes which might cause their disemployment. When the WLB rejected the union's position—not on the merits but on the purely legal ground that the Board had no power to introduce new relationships between employer and employee—labor was not deterred from persisting in such demands.

The powerful United Automobile Workers, CIO, the largest union in the country, also joined in the fray. It demanded that General Motors set up a postwar security fund equal to the fund it had already put aside for postwar business contingencies. The union's idea was to have the money invested in war bonds, and at the end of the war, workers for whom the company could not provide a full 40 hours work per week would be given allowances in addition to the government's unemployment insurance benefits. The fund was to be jointly administered by the company and the union to assure a full 40 hours' pay even in depression.

"A private postwar WPA" was the verdict rendered by the industry members of the WLB panel who hinted that the fund was intended for "unproductive boondoggling." On the ground that it was, in effect, a demand for a share of net profits earned by the corporation, the Board withheld its approval.[12] But the unions have never regarded profits as inviolate. Labor's orientation has been in the direction of slicing off ever increasing portions of the profits and adding them to wages.

General Motors had taken the position that "the union demand is a profit-sharing plan and is beyond the powers of the WLB to adjudicate." That argument was not unwelcome to the public members of the Board who believed it their duty to prevent the introduction of "sociological innovations" during the war. Yet in many instances they found that events were beyond their control. They wanted to maintain the status quo, to keep both sides in the labor conflict from using the war situation to enlarge on what they would have gained in peacetime. But no force on earth could maintain the old equilibrium while the whole economy was being rocked by the economic explosions of war. The Board's decisions were not issued in a vacuum. Every ruling that it handed down, every contract clause that it wrote, helped shape the outlines of postwar labor policy. That was true in a literal sense, for the Board had no way of knowing whether any contract it was ordering would terminate before or after V-Day.

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[11] Electrical Transcription Manufacturers, supra.

[12] General Motors Co., 22 War Labor Reports 484, decided March 18, 1945.

On many occasions, the WLB required the unions to sign contracts containing a specific management prerogative clause. Usually it read along the following lines: "The right to hire, promote, discharge, or discipline for just cause and to maintain discipline and efficiency of employees and schedules of working hours is the sole responsibility of the company except that union members shall not be discriminated against as such. If the union or any employee feels aggrieved by any company action in this respect, they have recourse through the grievance procedure set forth in this agreement for the adjustment of the grievance. It is recognized that the type of products to be manufactured, the location of plants, the schedules of production, the methods, processes, and means of manufacturing are management prerogatives."

Many disputed issues were lumped under management prerogative. Employers were free, by express WLB ruling, to set up job classifications, to assign or remove foremen without regard to the wishes of the workers, to transfer employees. Power to discharge or discipline workers for misconduct was left solely to the company. When one union protested that its members would suffer monetary loss by reason of the company's farming out some of its work elsewhere, the WLB held that subcontracting was management's prerogative. When a bus company ordered its ticket agents to wear ties while at work and the union fought for sports shirts without ties, the Board said management prerogative. But it took a different tack with the auto workers when they wanted General Motors to allow smoking in designated places on the company premises. In some individual cases, the Board backed down on other management prerogatives: for example, it gave the United Electrical, Radio and Machine Workers a voice in the permanent transferring of workers, permitting only temporary transfers to remain the sole responsibility of management. As a rule, though, the WLB upheld the right of management to follow its own wishes on matters of this kind.

Theoretically, the unions had the right under the Wagner Act to bargain on all these questions or take them up as grievances. Practically, though, the Board was blocking collective bargaining by allowing the decision to rest on the consent of management, which labor could not obtain without the right to strike.

But in another direction, the war expanded the degree of labor's participation in management functions. The development of the war economy jogged labor to take up problems that it would ordinarily have left untouched. In the early stages of the defense program, unions kept a sharp eye on the conversion and plant expansion program. When the key automobile industry refused to turn over for war production, the United Automobile Workers, through one of its vice-presidents, Walter Reuther, came forward with detailed plans for aircraft production.[13] Industry representatives scoffed. John H. Jouett, president of the Aeronautical Chamber of Commerce, labeled Reuther's ideas as impractical, saying: "We have every reason to believe that less than ten percent of the machine tools in the auto plants are usable in airplane manufacturing."[14] Ignored, spurned, but ultimately put into operation, Reuther's suggestions for switching the industry into aircraft production whipped up labor's self-confidence. In steel, Philip Murray demanded the establishment of "industry councils" representative of management and labor, but without success.[15] Nevertheless, the Steelworkers Union issued a handbook, *Production Problems,* to guide its members. The Bituminous Coal Division of the Department of the Interior set up a committee of twelve, six officers from the United Mine Workers and six coal operators, to advise on regulatory policy. This was participation in management.

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[13] *PM,* January 8–10, 1941.

[14] Letter to the editor, *New York Times,* January 27, 1941.

[15] *The Dynamics of Industrial Democracy* by Clinton S. Golden and Harold J. Ruttenberg, Harper and Brothers, New York, 1942, page 343 et seq.

It was reasonable to expect that labor could make a contribution to the production effort. Long and intimate contact with the operation of the plants was bound to inspire workers with ideas on how to improve efficiency. Management itself realized that, and invited contributions through "suggestion boxes." Eventually, the War Production Board decided to formalize the process and stimulated the establishment of labor-management production committees in some 5,000 war plants. These committees scrupulously avoided taking up employer-union relations and concerned themselves exclusively with increasing output, reducing turnover and absenteeism, eliminating accidents, opening up bottlenecks, keeping down costs, saving time and materials.

Industry was divided in its attitude. The *Journal of Commerce,* for example, declared that the idea was a failure, while at the same time the *Wall Street Journal* reported that "labor and management have teamed up to save millions of man-hours badly needed to reach war production goals." Labor took the committees seriously. "They contain the seeds of a new order in labor's relationship to management," said the *Journal of Electrical Workers and Operators.*[16]

A number of industrialists took up the challenge when Theodore K. Quinn, the director-general of WPB's War Production Drive Committee, wrote an open letter entitled, "Please, Mr. Ford and Mr. Sloan!" urging the auto tycoons to establish labor-management committees in their plants. From Alfred P. Sloan came a tart reply that General Motors' production record was certainly good and that everything was running smoothly, so why bother. Ford executives were more outspoken. They tore the hide off the labor-management program as a "political vehicle designed a long time ago in an effort to push labor farther into the management of industry."[17]

There were cases, too, where the workers embarrassed the government officials in charge of the program. For example, the United Electrical, Radio and Machine Workers of the CIO told its members during the 1944 election campaign that labor-management committees "can also be made to serve the cause of political action." [18] That, of course, was not typical union policy, but it lent weight to management's fears.

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[16] *Journal of Commerce,* October 18, 1943; *Wall Street Journal,* November 16, 1943; *Journal of Electrical Workers and Operators,* July, 1944.

[17] *Journal of Commerce,* December 23, 1944; *CIO News,* December 27, 1943.

As a rule, though, company executives who had installed committees found them of value in stepping up output. The unions were more co-operative in carrying out measures aimed at greater productivity. Ordinarily, labor feared the introduction of time-study schemes and denounced the methods of efficiency experts like Taylor and Bedaux as "speed-ups" and "stretch-outs." But given an opportunity to participate in setting up production and wage incentive plans which offered greater take-home pay, the workers responded eagerly.

Only 5,000 of the nation's war plants installed labor-management committees and only ten percent of the 5,000 indicated an intention to maintain the committees for postwar use. In England where the same technique was in operation, the Ministry of Production announced that the labor-management committees would be retained in peacetime. Here in the United States, labor was also interested in their preservation and suggested that the machinery be transferred after the war to the Department of Commerce or Labor. The *Journal of Commerce* described this as labor's "war aim" and warned, in 1941, of "labor unions sharing with management in the self-regulation of industries under government auspices." [19]

Where the background of labor relations was one of mutual and long-standing suspicion, management was naturally averse to labor's formal recognition as a partner in the productive process. Yet there was a considerable history, extending over decades, of unions exercising managerial functions to the advantage of the owners.[20] This was particularly true in the older, better organized trades like the garment industry where management had proved itself most inept as compared with other industries. Both the International Ladies Garment Workers Union and the Amalgamated Clothing Workers had found as early as the 1920's that the welfare of their members required the elimination of chaotic production and cost conditions. In many instances, the unions were invited to send in experienced business agents to reorganize the plant, correct the irregular flow of material, revise floor plans, introduce new equipment, reduce wastage, combine operations, and even to change the line of goods where the current market made it advisable. Generally, the union would act on either of two grounds: the need for preserving the competitive position of the employer as against the nonunion shop; or the need for saving the employer from bankruptcy and the workers from unemployment. Sometimes, where the situation seemed genuinely desperate, the unions would even take the drastic, unpleasant step of reducing their own wage scales.

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[18] *UE Guide to Political Action,* published by the United Electrical, Radio and Machine Workers of America, CIO, New York, 1944, page 45.

[19] *Journal of Commerce,* February 25, 1941 and November 4, 1944.

[20] *Union Policies and Industrial Management* by Sumner H. Slichter, The Brookings Institution, Washington, D.C., 1941, Chapter XIX.

Co-operation of this kind was found in many enterprises—in hosiery mills, printing plants, metalworking establishments, street railways, even a few iron and steel mills. Significantly, though, it was only where the unions were confident of their own strength and no longer faced a battle for survival against the employer's hostility. The unions would not think of co-operating with an employer if he was an enemy who had to be constantly watched.

Still another factor in the willingness of the workers to serve the efficiency of industry was the extent of union organization. Where collective bargaining is conducted on an industry-wide basis the unions are likely to be more concerned with the economics of their enterprise. One reason, as Sumner Slichter indicates, is the fact that national union officers are inclined to take a longer-range view than local officers. That explains why most of the unions which bargain for a whole industry, instead of with individual employers, maintain large economic research staffs and in some cases, as in the garment trades, are virtually the sole authorities on the general economic trends of the industry.

Sometimes the co-operation between unions and employers went so far as to include price-fixing, backed up by the use of picket lines against noncomplying employers. Even before the war, this practice was beginning to develop as a threat to consumers interested in lower prices. In Chicago, for example, the Milk Wagon Drivers Union combined with the producers and distributors to keep prices up. If retailers sold below the "standard" price, the union threw a picket line around their doors. When individual dealers sued for an injunction on the ground that the purpose of the union was not to organize workers but to support a milk monopoly, the Supreme Court ruled that the Norris-LaGuardia Act prevented action.[21]

There were many such cases. Thurman Arnold, as head of the Department of Justice's Antitrust Division, tried in vain to persuade the Supreme Court that the antitrust laws should be applied to the unions.[22] In a letter to the AFL Central Labor Union in Indianapolis, written about three months after the war started in Europe, he announced that it would be the policy of the Department of Justice to prosecute five types of union activities as violations of the Sherman Act: unreasonable restraints designed to prevent the use of cheaper material, improved equipment, or more efficient methods; unreasonable restraints designed to compel the hiring of useless and unnecessary labor; unreasonable restraints designed to enforce systems of graft and extortion; unreasonable restraints designed to enforce illegally fixed prices; and unreasonable restraints in the form of jurisdictional disputes designed to destroy an established and legitimate system of collective bargaining.

Following this policy, the Department of Justice attempted, for example, to obtain an injunction restraining the American Federation of Musicians from continuing its ban on recordings and transcriptions.[23] It indicted the AFL's Brotherhood of Painters on antitrust charges because of an agreement with employers not to use paint-spraying machines; the union defended itself on two grounds—fear of technological unemployment, and the danger to its members of lead poisoning.[24] In such cases carried to the Supreme Court, Arnold's score turned out to be exactly zero, and he acknowledged his defeat by retiring from the arena of prosecution to the relative placidity of the federal bench.

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[21] Milk Wagon Drivers Union, Local 753 v. Lake Valley Farm Products, Inc., 311 U.S. 91, decided November 18, 1940.

[22] *Bottlenecks of Business* by Thurman Arnold, Reynal & Hitchcock, New York, 1940.

[23] United States v. American Federation of Musicians, 47 F. Supp. 304, decided October 14, 1942, affirmed 318 U.S. 741, decided February 15, 1943.

[24] United States v. Bay Area Painters and Decorators Joint Council, 49 F. Supp. 733, decided April 19, 1943.

But the fight was by no means over. In June, 1945, the Supreme Court for the first time laid down a clear policy on the problem of unions participating with employers in restraints of trade. Local 3 of the AFL's International Brotherhood of Electrical Workers had engaged in strikes and boycotts resulting in closed-shop contracts with electrical equipment manufacturers in the New York metropolitan area. The union had undertaken to require local contractors to buy their supplies only from these manufacturers. By an eight-to-one vote, the Court held that the union had joined in a violation of the Sherman Act.[25] It made no difference that the union had acted with a view to improving the conditions of its members. It had achieved those ends by joining with employers to effect a monopolistic price and market control.

If the union had acted alone, said the Court, it would have been exempted from the antitrust laws, even though its policy raised prices and resulted in barring nonunion products from the channels of trade. As if to emphasize the point, the High Court handed down a decision on the same day in which it exonerated a union that had gone even further than the Electrical Workers.[26] In retaliation for the alleged murder of a union member by an employer, a local of the Teamsters Union had deliberately taken steps to force him out of business. It had rejected his employees' applications for union membership, refused to allow its members to work for him, and had organized a successful boycott among his customers. Since the union's acts were not contaminated by association with competitive employers, a five-to-four decision held there was no illegality.

So far as the antitrust laws were concerned, the unions were free to bring economic pressure in the interest of their own members as long as they did not join hands with industry. But the War Labor Board had been created precisely because existing law was considered inadequate to halt union interferences with production which had been permitted in peacetime. Some of the abuses which Arnold had cited tended to disappear from labor's manual of tactics because of the pressures of the war. But not altogether. "Featherbedding," for example, continued, with Petrillo again the most notorious practitioner. The musicians, protecting themselves against the threat of unemployment in the postwar period, reiterated their demands that "stand-bys" be paid whenever mechanical music replaced live music on radio programs. That issue came before the War Labor Board which would not, in new contracts, order management to take on unnecessary workers. At a WLB hearing, a public member of the Board asked Petrillo directly how many musicians should be standing by while a recording was going out on the air.

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[25] Allen Bradley Co. v. Local Union No. 3, 65 S. Ct. 1533, decided June 18, 1945.

[26] Hunt v. Crumbach, 65 S. Ct. 1545, decided June 18, 1945.

"We want as many men standing by as are making the transcription," he answered.

"What would they be doing?" inquired the public member.

"Listening to their own music," said Petrillo humorlessly. There was laughter, to which he replied: "We're not going to play our own funeral music any more." [27]

That was an economic argument and it deserved public scrutiny, despite its proponent. The WLB, which has waged war against Petrillo as effectively as its powers permitted, has been forced to face the economic question involved. It would not allow featherbedding in new contracts, but its New York Regional Board felt constrained to renew the musicians' stand-by provisions which had already been established in previous contracts.[28] Local 802 of the union had signed an agreement with Radio Station WOV in 1941 which required the station to retain twelve musicians even though it had no need for their services.

"Bluntly stated, the issue before us," said the Regional Board, "is whether or not we shall destroy or diminish privileges won by a local union through collective bargaining—privileges which, it may be assumed, the employer unaided could not now withdraw." The very grounds on which the National Board had relied to disapprove Petrillo's royalty demand now worked to insure his right to compel the hiring of unneeded musicians. "The War Labor Disputes Act," the Regional WLB explained, "directs this Board 'to provide by order the wages and hours and all other terms and conditions (customarily included in collective bargaining agreements) governing the relations between the parties. . . .' Thus Congress declared its will to confine our authority within the accustomed framework of industrial relations. No roving commission to reform or innovate has been granted us. We are to decide disputes as wisely as we can, but not by departing from the planes which have been reached through the free play of opposing economic pressures in pre-war days."

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[27] *New York Times,* July 10, 1943.

[28] Radio Station WOV, War Labor Board, Second Region, 22 War Labor Reports 744, decided March 20, 1945.

Then the Regional Board went into the background of featherbedding. "It is not our purpose here to justify or advocate featherbedding. We do not condone wasting manpower, especially during this critical period of the nation's history. It is important to observe, however, that devices to increase the number of employees required to complete a given volume of work have not been unqualifiedly denounced. Indeed, in a number of instances such devices have been embodied in legislative mandates as well as in union contracts."

True enough, but the unquestionable fact remained that, in war or peace, such artificial devices for maintaining employment are injurious to society as a whole. If technological change is to be thwarted, the nation's standard of living is certain to suffer. When machinery was first introduced in Europe, the workers revolted against it. In the sixteenth century the first improved weaving machine was ordered burned by the authorities in Danzig and its inventor was executed because of the public disorder it created. In town after town where its use was attempted on the continent, rioting led to ordinances making it unlawful. England was rocked in the early part of the nineteenth century by the Luddites who organized machinery-lynchings. In the end the violence was of no avail, any more than the picketing of theatres in the early 1930's stopped the introduction of canned music.

But while it's easy to recognize the interest of society, it's impossible to persuade one segment that it must suffer joblessness for the benefit of all. Can a society capable of such inventiveness tell workers there is no immediate solution for the problem created by its genius? Certainly the "stand-by" system is not the solution. Paying men to listen to music, as Petrillo demands, or the full-time employment of electricians just to throw a switch twice a night, as the stagehands require, is unsound by any standard—economic, social, or moral. But labor's failure to come up with the right answer does not justify a refusal to recognize that the problem exists. In the long run technological progress may open up more jobs, but meanwhile the displaced worker is asked to pay the price of readjustment. How to give the workers in the industry a share in the benefits of scientific and mechanical discovery will be a basic labor-relations problem over the next decades. Labor will continue to ask a voice in deciding what kind of equipment management may use or what forfeit it is to pay for installing labor-saving devices.

Of course employers will resist. It is the rare case when men like the Rust brothers concern themselves with the social consequences before marketing their mechanical cotton picker. Most employers follow the normal human impulses of the entrepreneur. That has proved to be true not only where profits are involved but even where labor is doing little more than invading the dignity of managerial status.

More and more the unions have been encroaching on the domain of management—despite the War Labor Board. The more vigorous the labor organization, the greater is its interest in how management is functioning. In the automobile industry, for example, the companies have become increasingly concerned with the power of the union. Spokesmen for the Automotive Council for War Production have charged the United Auto Workers with constant trespasses on the areas of managerial decision. They claimed that authority has disappeared from the plants because workers can't answer the question, "Who's boss?" The union replied that the Council was merely "mudslinging," but the fact remains and will continue to remain that labor does insist it too has a managerial function.

One of the permanent legacies of the war is labor's conviction that it is a major partner in the production process. If management was incompetent in wartime, the nation suffered the loss of output; if management is incompetent in peacetime, the workers will suffer the loss in wages and in jobs. Labor will not stand idly by. Already some of the unions, like the AFL's International Ladies Garment Workers Union, have set up industrial engineering staffs to keep watch on management. The New York dressmakers went so far as to write into some of their contracts a provision requiring the manufacturers to compensate workers for any loss in earnings due to management inefficiency. The *New York Times* could hardly have been aware of all the implications when it commented that nobody could "quarrel with a union statesman-like plan to raise its members' incomes by increasing their productivity." [29]

These invasions of the businessman's sovereignty have naturally met with hostility, but even more jarring on industry's nerves was unionism's penetration into the lower rungs of management itself by organizing foremen and supervisory employees. Employers insisted that it was wrong, in law and economics, to require them to bargain collectively with their supervisors. But along with its other revolutionary developments, the war has brought a change in foremen's attitudes. They saw the rank-and-file workers organize and win respect as well as better conditions. Why couldn't they do likewise? The Foreman's Association of America, beginning in the Detroit automobile center, spread out from plant to plant.

The National Labor Relations Board, facing the theoretical possibility of five million organized foremen, wriggled uncomfortably on the horns of a dilemma: it had made management responsible for the anti-union activities of its foremen; how could it now ask management to bargain collectively with foremen's unions? For a while it clung to the anomalous position that foremen could unionize and were protected against discriminatory discharges by the Wagner Act but were not entitled to collective bargaining as a matter of law unless there had been a past record of such bargaining in the industry. In effect, the Board was telling history to stop, but history refused. If the NLRB would not enforce collective bargaining, the foremen decided that strikes would produce the same result. That brought the War Labor Board into the picture. Under a duty to halt stoppages in war production, the WLB could not refrain from settling the disputes and writing contracts which determined foremen's conditions and pay.

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[29] *New York Times,* February 4, 1941.

With war output endangered, the NLRB had to reconsider. In the Packard case, it reopened the whole issue and listened impatiently to the wordy contentions of both sides. Management took it hard, declaring that foremen could not serve two masters at the same time and that production would collapse if foremen could unionize. The foremen's spokesmen, on the other hand, argued that they were loyal to management on the production end, but when it came to wages, hours, and working conditions, "we're adversaries; the company is trying to get us as cheap as it can, and we're trying to get as much as we can."

There was little doubt of the outcome. The Board ruled that the bottom layers of management, foremen and supervisors, were to enjoy collective bargaining under the Wagner Act.[30] "When are the unions going to organize us?" asked the top executives. A General Motors advertisement demanded, "Should Management Be Unionized?" and announced that the company would "oppose the unionization of management by every proper and lawful means."

All along the line, labor was pushing for an expansion of collective bargaining, its appetite whetted by the very restraints of the WLB and the lush potentialities of wartime. The setbacks were many where war itself created the barriers. But the handwriting was clearly legible on the wall, and management wanted to know where it was all going to end. The answer, if labor history teaches anything, is that it will not.

Even the conservative Samuel Gompers, when cross-examined by Morris Hillquit, the Socialist leader, before Woodrow Wilson's Commission on Industrial Relations,[31] recognized that labor would never be content. "Will this effort on the part of organized labor ever stop before the workers receive the full reward for their labor?" Hillquit asked.

"It won't stop at all at any particular point," replied Gompers. "Organized labor makes a constantly increasing demand upon society for reward for the service which the workers render to society."

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[30] Packard Motor Car Co., 61 NLRB No. 3, decided March 28, 1945. See also Maryland Drydock Co., 49 NLRB 733, decided May 11, 1943, and Soss Manufacturing Co., 56 NLRB 348, decided May 8, 1944.

[31] *Loose Leaves from a Busy Life* by Morris Hillquit, Rand School Press, New York, 1934, Chapter VI.

That was in 1914. In 1943, when the War Labor Board ordered U.S. Gypsum to sign a maintenance-of-membership contract, Sewell Avery advertised in the daily newspapers that the company was going to "maintain management by undivided responsibility." Nobody offered odds.

CHAPTER VIII

MEN AS WANTED—LABOR SHORTAGE

On the walls of the office from which he was carried by the soldiers, Sewell Avery has pictures of three men—his father Waldo Avery, Abraham Lincoln, and Julius Rosenwald. Curiously, two of the three have been identified with service to the Negroes in the United States; the Great Emancipator for their liberation from chattel slavery, the Jewish philanthropist for his efforts to give them a better start in the economic race.

Like Avery, Rosenwald played an important part in mail-order merchandising. One-time president of Sears, Roebuck, he attracted considerable public attention in 1921 when he pledged 21 million dollars to save the company from insolvency. Today he is largely remembered for the thousands of Negro rural schools in the South and for the good works still being done by the Rosenwald Fund to improve the status of America's most oppressed minority.

Rosenwald's objective was to raise the Negro to a higher economic level by giving him the knowledge and skill that better jobs required. But it took the bloodiest war in history to open the doors to Negro workers—and even then not more than slightly ajar. The experience of Negro labor in these past few years is the clearest verdict on our approach to the wartime manpower problem. It demonstrates how thoroughly our prejudices blocked not only justice but our self-interest. Perhaps if our manpower difficulties had been greater, our morality would have been better.

It is ironical that Rosenwald's picture should look down on Avery as he fought the War Labor Board over a union contract clause forbidding racial discrimination in the hiring of employees. The International Longshoremen's and Warehousemen's Union had charged the company with discrimination in its St. Paul store, and following the general policy of the CIO was seeking to enforce economic equality by writing it into the contract.

The industry members dissented from the Board's order directing a no-discrimination clause.[1] They agreed with the principles set forth in the clause, but added: "We believe that it is not a clause that should be ordered inserted into a contract under any circumstances. In the first place by Executive Order there is a duly constituted government agency whose sole duty is to investigate racial discrimination and to take action in those cases in which it is warranted. We believe that it was never contemplated that the National War Labor Board would concern itself with racial discrimination problems."

Actually, the industry members were wrong in implying that another government agency had jurisdiction. The reference was clearly to the Fair Employment Practices Committee which the President had set up by Executive Order 8802 in June, 1941, when it became clear that the brawn of every available worker would be needed in the defense effort.[2] Negroes, as always, were being turned back at the factory gates, and Negro unionists were aroused. Led by A. Philip Randolph, head of the Brotherhood of Sleeping Car Porters, a Harvard graduate with extraordinary ability as an orator, the Negroes organized a "March on Washington" to plead for the right to participate in the production effort. Preparations for the demonstration were already completed when Mrs. Eleanor Roosevelt arranged for the Negro leader to meet the President. At the very last minute Randolph went on the air to announce over a nation-wide hookup that the march was being cancelled because the President had issued an Executive Order prohibiting discrimination and establishing a Fair Employment Practices Committee.

But the FEPC was never authorized to act in any case other than in "defense" or "war industries." Governmental authority in the field of race relations was never as broad as in the case of labor disputes. In the latter, the WLB had authority to intervene if the dispute might lead to a "substantial interference with the war effort," but the FEPC could not act except in direct war industries.

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[1] Montgomery Ward & Co., 18 War Labor Reports 772, decided September 28, 1944. The Fair Employment Practices Committee expressed its disagreement with the views of the industry members in a statement released by the War Labor Board on October 1, 1944, WLB Release No. B–1741a.

[2] Executive Order 8802 was issued June 25, 1941 and was amended by Executive Order 9346, issued May 27, 1943. For an official history of the Committee, see *First Report, Fair Employment Practices Committee,* submitted to the President on May 1, 1945. The origins of the Committee are described in an *American Dilemma*: *The Negro Problem and Modern Democracy* by Gunnar Myrdal, Harper & Brothers, New York, 1944, pages 414–16.

As a matter of fact, in the first two years of its existence the FEPC did not even have any real power to control the employment practices of war industries. Originally set up "to promote the fullest utilization of all available manpower," the Committee received a body blow on October 7, 1943, when the Comptroller General of the United States held that the Executive Order was only an expression of hope by the President. The Order had provided that "all contracting agencies of the Government of the United States shall include in all defense contracts hereafter negotiated by them a provision obligating the contractor not to discriminate against any worker because of race, creed, color, or national origin." The Comptroller General ruled that the word "shall" was not mandatory.

A storm of protest rose from Negro groups. Again they turned to the White House, and on November 6 they emerged with a public statement from the President which left no doubt that in the area of war production Negroes were not to be denied the right to work.

But once again they found that action did not necessarily follow well-spoken words. Negro railroad workers were still unable to get jobs for which they were qualified. They complained to the FEPC, only to be frustrated by government delay. Hearing dates had been set, but suddenly, without explanation, War Manpower Commissioner Paul V. McNutt who had jurisdiction over the FEPC cancelled the scheduled hearings. More protests followed, and at long last the Negroes were heard.

The evidence was overwhelming that men with undisputed skills were being excluded from contribution to the war effort by common agreement between the carriers and the all-white unions. The shipment of war material was being held up for lack of the right workers, railroad accidents were being caused by unskilled hands, the Office of Defense Transportation was calling for the use of women and prisoners of war, and at the same time well-qualified Negroes were being denied employment opportunities. The railroads, which participated in the hearings, did not conceal the facts but reiterated their determination to continue the old practices. The unions didn't even bother to attend the sessions, nor did they ever carry out the directives which the FEPC issued.[3]

Yet the war had made possible a small measure of job-freedom for the Negroes. "From a 3 percent participation at the end of 1942 the Negro workers have reached a 7.2 percent participation in the vital war industries employing some 14 million industrial workers," said Chairman Malcolm Ross of the FEPC before the House Committee taking testimony on making the Committee permanent. "The need for war manpower is largely responsible for this, with perhaps some credit to be given to the WMC and the FEPC."

Strewn along the road to that 7.2 percent lay the victims of riots in Detroit, Beaumont, and Philadelphia. In some cases the employers, in some cases the unions, in other cases anti-union groups of workers, were responsible for the violence with which white workers sought to exclude Negroes from the plants. Government played its part in attempting to protect the Negroes. The War Labor Board tried to enforce the spirit behind the FEPC by ordering "equal pay for equal work" done by Negro labor; [4] it ordered employers and unions to place no racial obstacles in the way of Negro job-seeking. The National Labor Relations Board refused to certify unions which exclude minorities from membership.[5] The courts, including the Supreme Court, insisted that unions must give equal representation to racial groups in the collective bargaining unit.

All this has been a reflection of the wartime need for Negro labor. But the black citizen still eats his bread with ashes. For after the war it remained true that he was the last to be hired and the first to be fired, the last to be promoted and the first to be demoted.

The trickle of Negroes into industry was only part of a great labor turnover. Naturally, industry did not welcome the drastic changes in personnel. Among the debit items in a businessman's appraisal of his efficiency he must always include the number of old workers who leave his employ and the number of new ones who come along; his cost accountants can translate into dollars and cents the loss he suffers by breaking in new employees, no matter how experienced. When Sewell Avery refused to sign a new contract with the United Retail, Wholesale and Department Store Employees of America, he contended that his personnel had changed so radically that the union could no longer be considered representative of the workers. An NLRB election showed that the new workers wanted to be represented by the union, too, but it was unquestionably true that the war had shaken up the workforce.

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[3] *Organized Labor and the Negro* by Herbert R. Northrup, Harper & Brothers, New York, 1944, Chapter III.

[4] Miami Copper Co. et al., 18 War Labor Reports 591, decided July 20, 1944.

[5] Bethlehem-Alameda Shipyard, Inc., 53 NLRB 999, decided November 30, 1943.

There were several reasons for it. Once wage stabilization had jelled, workers found they they could earn more only by shifting to higher-paying jobs. Yet the war economy could not tolerate this chaotic migration of workers in search of better wages. Millions had to be transferred to war production or to more essential civilian work. In a free-enterprise economy, such as existed before the war, the motive power was always higher wages. If an industry needed workers, it got them by holding out more pay as the bait. But one of the basic purposes of wage stabilization was to keep down costs of production; the inflationary lure of higher pay was too dangerous. As price control had led to wage control, so wage control inevitably led to manpower control.

Consequently, the War Manpower Commission was made responsible for keeping workers on essential jobs and moving others from the less essential to the more essential. Labor would have preferred to see manpower problems in the hands of the friendly Department of Labor. But President Roosevelt was following a policy of by-passing futile Frances Perkins, the Secretary of Labor. Logically she should have been authorized to exercise control over manpower and wages, but she commanded the respect of neither industry nor labor. By the same tests, Paul V. McNutt was also not the best choice. Despite his handsome commanding appearance, his introversion disqualified him for leadership in what was to prove one of the most delicate areas of labor control. The inner insecurity of the Federal Security Administrator made it a torment for him to meet with the press or the other government agencies which kept presenting him with conflicting demands. Only a strong man could face up to the pressures of Selective Service on the one hand and the War Production Board on the other.

In theory Selective Service was supposed to be a civilian agency, separate and distinct from the Armed Forces. In the very first days of peacetime conscription, labor feared the potential use of the draft as a weapon in labor relations. Since men were to be deferred on the basis of occupational necessity, attested by the employer, unions were afraid their more militant members would be ousted from the plants via the induction center. In some strikes, local boards did use deferment-cancellations to force men back to work.

Above all, labor did not want top policy to be made by the military. At the outset it seemed fairly certain that the Selective Service Administration would be manned by civilians. Its first director was the educator, Clarence Dykstra, but he was succeeded by Gen. Lewis B. Hershey, an officer who had spent years before the war studying the problems of conscription. By the beginning of 1945 there was not a single civilian holding an executive post in the entire national administration of Selective Service. A total of 741 officers—including generals, colonels, lieutenant colonels, majors, and naval officers of comparable rank—occupied the desks and swivel chairs, and told the War Manpower Commission what was to be policy on the withdrawal of men from industry.[6]

On the other side was the War Production Board, with a full Labor Division, concerned with the problem of getting maximum output from workers employed in industry, and interested in filling needed jobs with qualified men. Its staff, including some of the most capable men from the AFL and the CIO, looked with suspicion at the brass hats in Selective Service and pushed hard for labor's point of view.

But, despite the pressures and the failings of its chief, the WMC did fairly well. McNutt set up a Labor-Management Policy Committee in the Commission to pass on major decisions. He succeeded, beyond everybody's expectations, in getting common agreement from representatives of the employers and the unions. Before the outbreak of war in Europe, the unions had consistently opposed the Industrial Mobilization Plans, the M-Day proposals drafted by Army and Navy planners. Top labor officials like William Green excoriated the very idea of workers being required to stay on any given job or forced to move to other activity. But sitting in the Labor-Management Policy Committee, union leaders forgot that they had once pointed to the German labor passport, the *Arbeitsbuch*, as a fascist device, and accepted WMC's "statement of availability" as a proper instrument for labor control. Without it a worker could not leave an essential activity to take up employment in a new plant. Similarly, union leaders yielded to the necessity of having workers apply to the United States Employment Service for approval before they could switch jobs. That was no mean achievement.

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[6] *New York Post,* "Washington Memo" by Charles Van Devander and William O. Player, February 13, 1945.

All this was done as part of a "voluntary system" of manpower control. The real test came when the Army demanded a national service act under which labor could be drafted directly for employment in whatever industry the government indicated. At that point labor rebelled. The Army argued that workers should be conscripted for labor under a work-or-fight or a work-or-jail system just as men are conscripted for the armed forces. Labor's reply was that a vast difference lay between military and industrial conscription. In the one case, a man was taken to serve his government; in the other case, to serve a private employer who was drawing a profit from the labor of others. Furthermore, the unions denied that there was a real need for such drastic action. They conceded that shortages existed but claimed that these were due to manpower hoarding by employers or that they were the result of inadequate, substandard wages which forced workers to seek better paying jobs, of poor housing which kept workers from moving into war centers, etc.

When first proposed, the national service legislation was offered as a method of preventing strikes. Originally the White House was cool, despite newspaper editorials calling on the President to conscript labor and prevent stoppages. Then, out of the blue, came a blunt attack from official circles close to the

President. A "high military official," who later turned out to be none other than Gen. George C. Marshall, Chief of Staff, belabored the unions for strikes in an "off the record" interview which made the front page of every daily paper in the country.[7]

The *Army and Navy Journal* reported that the anonymous attack had the support of the President, that it was part of a campaign for a national service law, and that the President would soon call on Congress to enact it.[8] He did. On January 11, 1944, the President opened the 1944 session of Congress with a "state of the union" message in which he set forth the following program: (1) a realistic tax law; (2) continuation of the contract renegotiation law; (3) a cost-of-food law; (4) early re-enactment of the price and wage stabilization laws which were due to expire in June; and (5) national service to "prevent strikes" and to effect "total mobilization of manpower and capital." But he made the fifth conditional on the achievement of the other objectives. "I would not recommend a national service law," he said, "unless the other laws were passed to keep down the cost of living, to share equitably the burden of taxation, to hold the stabilization line, and to prevent undue profits. . . ."

The program failed, and its failure was climaxed when Congress passed a two billion dollar tax law instead of the ten billion Roosevelt had asked for. The President vetoed it on the ground that it gave "special privileges to favored groups," and his own floor leader, Senator Barkley, denouncing the veto message as an insult to Congress, resigned his post. The President wrote "Dear Alben" to reconsider.

Nevertheless, taking the President's conditional approval of national service as a go-ahead signal, the Army and Navy launched an offensive on the home front.[9] Secretary of War Stimson delivered a radio talk in which he mentioned strikes and said: "The purpose of a National Service law is to reach this basic evil of irresponsibility and to extend the principles of democracy and justice which should exist throughout our population." A labor spokesman declared: "We see in it the beginning of a strategy of borrowing the tactics of totalitarianism." Secretary Knox of the Navy lambasted the leaders of the AFL and the CIO, referring to Green and Murray as having "missed a bet" by not endorsing national service. "It would have restored labor in the eyes of the public." Matthew Woll of the AFL labeled the proposal "a direct violation of the Thirteenth Amendment to the Federal Constitution which prohibits involuntary servitude." Donald Nelson, over at the War Production Board, declared that "our production is in grave danger," though he later withdrew his endorsement of the legislation and said the drafting of IV-F's would be enough.[10] "We face an immense crisis," said the *New York Times* on May 9. WMC Director McNutt, on the other hand, announced: "I would have welcomed something of this kind eighteen months ago, but the job has been done on a voluntary basis. It has been done. Why undo it?"[11]

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[7] The anonymous interview appeared in the *New York Times*, January 1, 1944; General Marshall was identified as the author in the *New York Times*, January 4, 1944.

[8] *Army and Navy Journal*, January 8, 1944.

[9] On April 20, 1944, Secretaries Stimson and Knox, of the War and Navy Departments, and Admiral Land of the Maritime Commission, issued a joint statement calling for national service legislation.

Industry too recorded its opposition. The National Association of Manufacturers told Knox that "compulsion of labor would be disastrous to production. The confusion that would result would upset the morale of American workers and would impair the production of capable men and women now doing a good job."[12] The United States Chamber of Commerce took the same position, that the legislation "may retard rather than advance the war program. . . . The magnificent industrial performance of the last two years does not support any implications of failure."[13]

The Armed Services meanwhile bombarded public opinion with statistics—1,400,000 men would be needed before the end of 1944. They reported that in the previous year the labor force had declined by 1,500,000 men and that high turnover was wreaking havoc in the war plants. And all this was happening while "we are poised for our greatest undertaking as a nation since we achieved our national independence and unity"—the invasion of the European continent.[14]

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[10] *New York Times,* March 25, 1944.

[11] *New York Times,* March 29, 1944.

[12] *New York Herald Tribune,* April 21, 1944.

[13] *Journal of Commerce,* April 21, 1944.

During the six months after the Normandy landings, there was comparative quiet on the issue. The national service act seemed dead. WPB Chairman Julius Krug, WMC Executive Director Charles Hay, and Gen. Brehon Somervell of the Army Service Forces, appeared before the Mead, formerly the Truman, Committee and reported that they saw no need for additional legislation on manpower. Krug said, "The trend is now going in the right direction." Privately, WPB officials were still congratulating themselves on their production successes, when the new line was handed down: Crisis ahead!

At the beginning of 1945 the national service act was back in the headlines and in the Congressional committees, this time with the *nihil obstat* of the President himself. Curiously, when he first recommended Congressional action conditioned on the enactment of his full program for 1944, Roosevelt had not even consulted his chief agent on manpower problems, Paul McNutt.[15] At that time the WMC director opposed the law because it meant the introduction of "military or bureaucratic processes."[16] In the second big push toward national service legislation, in the beginning of 1945, McNutt was not even on the scene. While America was suffering its "worst manpower crisis," he was overseas.

The President's fourth wartime "state of the union" message verged on criticism of Congress for not having already passed the act. "Last year, after much consideration," he said on January 6, 1945, "I recommended that the Congress adopt a national service act as the most efficient and democratic way of insuring full production for our war requirements. This recommendation was not adopted." He made no reference to the fact that his endorsement of the bill had been conditional and that the conditions had not been met. Now he no longer predicated Congressional action on the need for suppressing strikes. He put it squarely on the ground of production needs, on the desirability of convincing our fighting men that we were behind them and of showing the enemy that we were not halfhearted about the war.

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[14] Joint statement of Stimson, Knox and Land, *New York Times*, April 21, 1944.

[15] *New York Times*, March 29, 1944, summarizing McNutt's testimony before the House Military Affairs Committee.

[16] Quoted in an editorial, *New York Herald Tribune*, March 29, 1944.

Thus the President ranged himself firmly with the military in pursuit of an objective they had sought for a long time. Labor was indignant. "You're not kidding us," said the AFL's legislative representative. "It's the Army and Navy trying to take control."

The way had been paved in the preceding weeks by unexpected reverses on the western front. In December, 1944, the Nazis, taking the Allies by surprise, had pushed a great bulge through the Ardennes forest and upset the timetable for the entry into Germany. Not so paradoxically, the Army's power over the home front was always at its lowest ebb when military events were going well and invariably reached its high point when we were suffering defeats. If we seemed to be losing, the natural reaction was to give the generals everything they wanted.

Again statistics were cited. Undersecretary of War Patterson announced on January 10, 1945, that 1,600,000 persons would be needed by the end of June, 1945—700,000 for industry and 900,000 for the Army.

Labor got to work on the figures. The source of the manpower estimates must naturally have been the War Manpower Commission and the Bureau of Labor Statistics, the latter doing most of the technical work. When the military men said they needed 900,000 draftees, no one could say them nay. But the cry for 700,000 additional workers could be checked. And a check showed that the Army had not fully reported the Bureau's statistical findings.

The BLS was following its regular practice of determining future labor needs by the common bookkeeping device of debits and credits. In one column, it listed the known demands for manpower and alongside it, the known supply. Simple subtraction then gave the estimated manpower shortage or surplus, as the case might be. In this instance, the Army had simply reported one side of the ledger, the debits, but not the other.

Every half-year or so, the WMC, using the BLS findings, issued a manpower budget for the following six months. But because of the Army's campaign for national service legislation, the WMC's Reports and Analysis Service passed up its usual release and for months even refused to make any statement on details.[17] Ordinarily, the WMC would have released a new table of requirements in January, 1945; now the WMC said nothing. The Army felt free to make public the debit side of the ledger, *Additional Manpower Needed,* and suppress the credit side, *Sources of Supply.* Labor protested that you don't throw a business into bankruptcy by citing its debts and ignoring its assets, and that the Army was attempting to throw the nation's manpower into receivership on just such bookkeeping.

The Bureau of Labor Statistics, eager to preserve a reputation for honest reporting, was very unhappy. It did not dare to take public issue with the Army's figures. Nevertheless, its chief, A. F. Hinrichs, tried to get some of the facts on the record. In a radio forum carried by the Mutual Network on January 16, 1945, he said:

> "Senator Brewster just gave you the gross manpower requirements, 900,000 men and women for the armed forces and 700,000 men as a maximum figure for production, but it is very important to distinquish between your gross and your net requirements. The armed forces are returning men to civilian life as well as taking them out of it. Some industries are contracting while others are expanding. Your net requirements are in the order of 1,000,000, not 1,600,000. Furthermore, you get a normal growth of the labor force of about 500,000 in this next six-month period, so that the hard-to-get problem that we are talking about is in the order of 500,000 people. . . . As a matter of fact, part of the 500,000 that I speak of as being hard to get are undoubtedly going to be recruited by renewing the drive to keep people from retiring, to get additional women to work."

But there were still other factors which the BLS ordinarily deducted. Cutbacks were constantly taking place, regardless of anticipations as to the war's end. Old models were scrapped and new designs took their place. Any fair estimate of the number of workers needed had to take into account those to be released in the six-month period by the completion of contracts and by cutback layoffs, a very modest estimate of which was 300,000. Another 100,000 workers could be picked up because of seasonal layoffs. In addition, the Army itself was already dis-

[17] The last WMC "manpower budget" released before the big push for a national service act was dated June 23, 1944, Release No. PM–4611.

charging some 400,000 employables over six-month periods. From the total of 1,600,000 needed for military and industrial service, there should have been subtracted, too, the 150,000 enlistments of 17-year-olds that the Navy expected. These youngsters did not come out of industry but out of the schools for the most part.

These minimum figures added up to a total of 1,450,000, leaving an over-all shortage of less than 200,000. Actually, the manpower situation was fairly good. Hinrichs said that the net requirement "this next year and the next six months is a smaller increase in the size of the labor force than we had had at any time in the last four or five years."

According to the government's chief statistician, it wasn't even true that there had been a great withdrawal from the labor market. "It is very interesting to notice," said Hinrichs, "that there was a feeling this summer [1944] that the war was going to be over by late fall. You would have expected people to be pulling out at that time. There were rumors that people were pulling out. The fact is that labor turnover this year was not even a fractional tenth of a percent higher than it was last. Rather, it was slightly lower. . . . The only increase in the turnover rates as between 1943 and 1944 has been an increase in layoffs and an increase in discharges; there has been no increase in the voluntary quit rate."

These conclusions were confirmed by the WMC's private estimates, based on plant-by-plant reports from the field. Executive Director Charles M. Hay of the WMC, gave 150,000 as the number of urgently needed workers in war production. That figure covered the WMC's high priority categories as of the end of 1944.

At the same time the Army let it be known that war plants were 40 percent behind production schedules. The resulting impression was that industry was turning out only 60 percent of the Army's orders. That was far from the fact. Industry might have been behind in 40 percent of the *schedules*, but not 40 percent of *production*. In some schedules manufacturers were lagging by a few percent. But production schedules were not machined to fine tolerances. They were general goals and rough estimates, deliberately planned higher than needs, and nobody expected to hit them right on the nose.

But even if they were hard-and-fast imperatives, it was quite a jump to conclude that the reason for the lag was labor shortage. Any number of factors could delay production. Where output had really slipped, WPB Chairman Krug apportioned the blame as follows: sudden upsurges in requirements, 40 percent; design changes, 26 percent; facilities shortage, 12 percent; labor shortage, 22 percent.[18] In other words, 78 percent of the reason for the production lag, where it existed, was due to factors other than manpower deficiencies. Yet the emphasis was all on labor, and the nation was told that if the Army got its national service act, the problem would be solved.

There were critical spots in the manpower picture, but as the WMC pointed out, the difficulties were local, not national. The National Association of Manufacturers commented that Congress was being asked to set a bear-trap to catch a mouse, to pass a law applying to 18 million in order to get 200,000.

As in the case of the no-strike pledge and again in wage control, the unions attempted to forestall drastic action by advancing a voluntary program of their own. The AFL had asked the Army to supply it with a list of plants that needed workers. Only once did the Army furnish such a list; when the AFL itself undertook to find men for the jobs, it discovered that the shortages did not exist. For example, though Curtiss-Wright was down on the list for 2,500 workers, the company was actually in the process of shutting down three plants and dismissing 25,000 workers. A steel company, reported seeking 200 boilermakers and machinists, rejected the union's offers to provide the men and stated none were needed. After that experience, the Army refused to provide any further lists of labor shortage plants, despite continued requests from the AFL.

The unions confirmed their own experience by digging into WMC studies and reports. The weekly news service of the AFL described as "sensational" a report by the WMC Bureau of Manpower Utilization which declared: "The amount of labor required for present and foreseeable war production is for the most part already on the employment rolls of the country. A 5 to 10 percent improvement in manpower utilization would be sufficient to provide all necessary labor. There is not a factory in this country which could not easily improve its utilization to this degree. Resulting action would add the equivalent of 500,000 to 800,000 to the labor force."[19]

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[18] *The Labor Market,* January, 1945, published by the War Manpower Commission.

Even though the national situation was good, the unions had to admit that action was needed in the critical areas. They did not want a service act, but as a compromise with the inevitable they were willing to follow the WMC's plan of "forced releases" which would compel individual workers in specific cases to move to war-important work. In fact, their acceptance of the WMC program made national service legislation academic. While the debate was going on, the WMC's Labor-Management Policy Committee was already carrying out the national service act's provisions, using economic pressure since there were no criminal penalties. The program of "priority referrals" made it possible for workers to be discharged from their regular jobs, with the alternative of no work or work in a specified plant. In Allentown, Pennsylvania, WMC officials walked into a brewery and required it to surrender 97 workers for more critical production. In Chicago, the WMC fixed a forced-release ceiling under which nonessential industries could be compelled to reduce their male workforce by ten percent. Since the workers could get jobs only through the WMC's United States Employment Service, they had to go where they were sent. In one year, the WMC moved five million workers into priority jobs.[20]

In New Bedford, Massachusetts, the WMC's program encountered its first major opposition, and even there it was not a matter of principled objection to the plan but only a question of how wisely it was being applied. Local WMC officials had ordered textile workers into the Fisk and Firestone plants to make tire-cord. The town was aroused. Employers, unions, and city authorities alike feared that the loss of the small number of highly skilled workers would cripple the textile plants and throw hundreds into unemployment. In addition, there was bad feeling against Fisk and Firestone as carpetbaggers who would fold up their activities as soon as the war was over, and resentment against the companies because of strained labor relations. What climaxed the drama was the War Production

[19] *Weekly News Service,* AFL, March 6, 1945.

[20] WMC Release No. PM–4849, dated July 7, 1945.

Board's announcement that there was no shortage of tire-cord but of carbon-black and that tire workers could be released from the seven-day week to resume the normal six-day week.

In an effort to block the transfers, the workers went into federal court for an injunction but their plea was dismissed on the same grounds that frustrated Avery's efforts to enjoin the War Labor Board: the courts could not review the decisions of such administrative bodies.[21] Exercising their rights under the manpower regulations, the workers then appealed to the WMC's national Labor-Management Policy Committee. Reflecting the attitudes of both unions and employers, the Committee found itself at loggerheads with McNutt who wanted to sustain the local WMC. After futile attempts to come to an agreement, the Committee lost its temper and issued a statement that "application of the 'forced release' program in New Bedford was for the purpose of lobbying the Congress in support of compulsory service legislation. We are convinced from the clear evidence, painstakingly reviewed during half a dozen long meetings, that there was an attempt to create a situation which could be called a 'failure' of the voluntary method, so that force could be used." The Committee members charged that the WMC was being used as a cat's-paw by the War Department in its campaign for industrial conscription. With unprecedented boldness, they said publicly they would not process the appeals, thus indefinitely staying the forced labor transfers.[22] In the end, the WMC backed down.

Learning from this miserable experience, national headquarters set up what came to be known as the Philadelphia plan. Workers in nonessential activities, like confectionery, were ordered to move to war work, subject to certain safeguards: the unions were given a voice in approving the release lists and the shifted workers were guaranteed that they would suffer no pay reductions, loss of seniority rights or transfer to lower-skilled jobs.

The local difficulties were by no means solved, in fact could not be solved. Wage stabilization had destroyed the usual leverage for moving workers, the granting of higher pay to attract labor. As the WLB itself said, "It is a commonplace of labor economy in normal times that the simplest way of transferring labor to the points of greatest need is to raise wages at those points."[23] But these were not normal times, the Board went on, and underscored its duty to prevent inflation. The WLB took a firm position that it would not grant increases for the purpose of moving manpower to more essential work. Employers who voluntarily sought to raise wages in order to get more help were turned down by the WLB on the ground that it was not the Board's function to approve wage increases for the purpose of "influencing or directing the flow of manpower." Yet the Board had recognized earlier that in many cases workers who were turned away empty-handed would consider the decision an invitation to look for other jobs.

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[21] England v. Devine, 59 F. Supp. 379, decided March 5, 1945.

[22] *Journal of Commerce,* March 21, 1945.

When labor shortage hit the highly important nonferrous metal mines, the WLB had to give way. In 1942 the situation became so desperate in zinc, copper, and lead production that the Army combed its ranks for hard rock miners to send back to the diggings, Selective Service ordered suspension of the draft for those already at work, the War Manpower Commission introduced its statements of availability for the first time as "separation certificates," and the War Production Board flatly ordered the gold mines to shut down so that the workers could be shifted to the more important, if less precious, metals demanded by war. Against that background the WLB could not deny an increase, particularly in view of the fact that the employers were themselves benefiting from government subsidy in the form of a price-support program, the government buying up all the output and selling it to industry at lower prices.

In still other ways, the WLB, much against its will, used its wage powers to supplement the controls of the War Manpower Commission. Employers with less than eight employees were exempt from the wage controls, but the WLB frequently withdrew this small business exemption when it found that little firms were pirating labor from larger establishments by offering higher wages. In some cases, the WLB relaxed its rules to help industry get needed workers. For instance, it had strictly limited the number of new employees who might be taken on at above-minimum rates for the job to 25 percent of all those newly hired. In critical war work, the WLB finally had to allow employers to go above that ceiling in signing up new workers.

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[23] Nonferrous Metal Companies, 4 War Labor Reports 147, decided October 23, 1942.

It was clear that labor shortage was most acute in the industries that paid poorly. For months the War Manpower Commission tried to shift workers into the foundries and eventually it turned to higher wages as the answer. In textiles, too, a long-drawn out effort of the CIO Textile Workers Union to raise substandard wages finally reached fruition despite the resistance of Economic Stabilizer Vinson. WLB Chairman George Taylor, who succeeded Davis, said flatly: "It simply doesn't make sense to continue to hamper the production of urgently needed supplies of cotton textiles by continued payment of the existing substandard minimum wages and by continued use of grossly unbalanced wage rate structures."[24] Any other method, he added, would make the manpower problem in the industry "virtually impossible of solution." But that came more than a year and a half after the issue had been presented to the Board.

Every agency concerned with manpower had recognized that the difficulties were localized and presented obstacles only in specific industries. If workers were staying away from critical jobs, it was at least in part because wages were low. If the dislocation had been twice as serious as the facts showed, if 500,000 urgent jobs had to be filled instead of 200,000, wage increases could have been granted. Raising pay for that number of persons could hardly have unstabilized the economy. Whenever production of a needed commodity was threatened by price difficulties, the OPA would grant relief. The WLB had similar powers where the commodity was labor itself, since it could raise wages "for the effective prosecution of the war."

But the Army preferred to accomplish the result by compulsion. While it never had its way completely, its unsuccessful campaign to bring the civilian population under its control achieved one result: it multiplied animosities between the men in the forces and those who were supplying them with the ammunition. The hangover will color the atmosphere for decades to come.

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[24] Twenty-three Southern Cotton Textile Companies, supplementary decision, released March 18, 1945.

IV

DIVIDED HOUSE

CHAPTER IX

FAMILY QUARREL—AFL VS. CIO

THE day Sewell Avery was being hustled from his office, the Executive Council of the American Federation of Labor was preparing for one of its regular meetings. The press besieged President William Green. Would the AFL chieftains make any statement on the situation at Montgomery Ward? Oh no, said Green, that's a CIO affair. A week later, when the council convened in Philadelphia, the reporters put the same question, but again, no statement on Ward. And the very next day Green released the council's resolution condemning Avery and placing the AFL squarely behind the government.

The explanation for the turnabout was simple enough: the White House had sent a straightforward request that the AFL get in line. The resulting statement was adopted by a vote of nine to two, the minority consisting of Republicans William L. Hutcheson of the Carpenters and G. M. Bugniazet of the Electricians. A third member, also a Republican, abstained from voting, though he too spoke against supporting the government. That was Matthew Woll, himself a member of the War Labor Board.

The division was strictly along party lines. The resolution was presented by Daniel Tobin of the Teamsters, quadrennial head of the Democratic National Committee's labor campaign division, and was opposed by Hutcheson, chairman of the Republicans' labor division.

When the session adjourned, the hulking Hutcheson remained behind to explain his vote to the newsmen.[1] "I don't think the AFL should attempt to condemn Montgomery Ward, notwithstanding the fact I have no brief for them. My understanding of the matter is they requested an election be held some time last October, and when that was held they would enter into bargaining."

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[1] *New York Herald Tribune,* May 4, 1944.

If that's so, said one of the reporters, every time a labor contract expired the employer would have the right to challenge the union's right to bargain. Did Mr. Hutcheson favor an election after the termination of every contract? Hardly. That would mean giving the CIO, every year or so, a chance to challenge the AFL unions in NLRB elections. "No," said Hutcheson, hedging a little, "but there was doubt in the Montgomery Ward case"—a doubt which was actually settled a few weeks later by a CIO election victory. "Maybe I'm all wrong," he continued, "but if the government can do what they did there, there is nothing to prevent them from going into any store or peanut stand in the country."

There was something of philosophy in Hutcheson's position, but of greater importance were two considerations which he did not mention at all: the imminent fourth-term campaign of President Roosevelt and the Ward workers' affiliation with the CIO. The motives of his colleagues in the AFL who differed with him were less mixed: they did not like the CIO, either, but they were for the re-election of Roosevelt. "Regardless of the particular circumstances or the type of union involved in the controversy with the Montgomery Ward company," said the resolution, "the Executive Council is primarily concerned with upholding the power and authority of the WLB." [2]

Peculiarly, the AFL made no reference to the fact that some of its own unions had been the victims of Avery's refusal to comply with WLB orders. The powerful Teamsters Union, well able to take care of itself without governmental aid, had wrestled with Wards in Portland, Oregon, for WLB-approved wage increases and maintenance of membership. In San Rafael, California, the Retail Clerks International Protective Association had not yet persuaded Avery to accept the Regional War Labor Board's order approving a minimum wage of $18 a week. In Avery's Hummer Manufacturing plants, the International Association of Machinists was already planning its own strike-and-seizure play.

When the Ward workers walked out the second time, AFL bodies hastened to interfere. In Detroit, for example, where the

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[2] *New York Times,* May 4, 1944.

CIO struck four of Avery's stores, the president of the AFL's central labor body publicly notified Roosevelt that employees in two of the stores were organized by the Retail Clerks and were staying at their posts. In other places, the Retail Clerks demanded NLRB elections which were denied on the basis of established Board rules.

There was nothing new in that situation. Time and again, labor organizations have tried to cut each other's throats and succeeded in slashing their own. Both the AFL and the CIO, despite their history of mutual conflict, had so much in common that their failure to unite under the economic pressures of the war is almost incredible. Disarmed by the no-strike pledge, confined to narrower areas of collective bargaining, and assailed repeatedly before the bar of public opinion, the unions should logically have closed ranks.

But the past was too much with them. The years of jurisdictional raiding had left their mark. To be sure, the sibilant cuss word that Bill Hutcheson had flung at Lewis in the 1935 AFL convention and the impact of Lewis's fist on Hutcheson's jowls were quite forgotten by the workers, and by the two men themselves. That had been Lewis's last convention in the AFL. Since then, expediency had driven the AFL to follow some CIO structural techniques, and the gulf of principles, issues, and tactics had narrowed considerably. But the feud was being kept alive by the new group loyalties which had developed. The self-interest of the two labor hierarchies—officeholders in parallel unions, central labor bodies, and industrial councils—continued to renew the conflict.

Pearl Harbor did make a difference. The controversies, jealousies and hatreds still seethed, only now they had to find nonviolent expression. Early in the defense program, both the AFL and the CIO recognized the fatal consequences if jurisdictional disputes were taken to the picket line in the tense atmosphere of preparedness. The controversies between crafts in the AFL threatened for a time to go on as usual, but in most cases they were either settled by internal labor machinery or remained on the level of argument in committees, conventions, and government agencies. There were important exceptions, of course; for example, a dispute between the Machinists and the Boilermakers tied up ship repairs in one of the yards and was resolved only by government seizure. The AFL's biggest problem was in the building trades where a cobweb of technical jurisdictional lines had grown up through the peacetime years. With military and essential construction fast becoming the only building activity in the country, the Army, Navy, Federal Works Administration, and the AFL's Building and Construction Trades Department worked out a stabilization agreement, covering not only uniform wages, hours, and working conditions but also providing for a Board of Review to adjust interunion disputes.

The greatest peril, however, lay in the possibility of jurisdictional strikes between the AFL and the CIO. With some exceptions, the unions pulled in their horns and stopped goring each other. By the end of 1942, the two federations had agreed to set up a joint committee on jurisdictional disputes but they were unable to work out a detailed no-raiding pact.[3] Nevertheless, fear of public reaction prevailed and they were content in most cases to let the National Labor Relations Board decide their conflicts through elections.

The AFL was not too happy about it, for the CIO continued to make a better record in garnering the votes of workers. Yet in the most important instance, affecting 60,000 workers in 5,000 communities, the AFL revealed an unexpected strength which led some of its leaders to conclude that the tide had finally begun to turn. Postal Telegraph and Western Union were merged in 1943 and the NLRB was confronted with a serious jurisdictional problem. Postal was pretty thoroughly organized by the CIO's American Communications Association, so well organized that AFL leaders sent all their wires by Western Union for fear their confidential messages would reach enemy eyes. In Western Union, a number of AFL groups were active but no single union was predominant.

In preparing for the election which would determine the bargaining representative, the NLRB struck a snag. Each side, uncertain of its relative strength, wanted the bargaining units so defined as to assure its victory. Temporarily abandoning its traditional concept of broad, industry-wide bargaining, the CIO asked for 105 different units, while the AFL, reversing

[3] *New York Times*, December 2, 1942; Report of the Executive Council to the 1943 AFL Convention, proceedings, page 40.

its craft philosophy, combined its affiliates into one general committee for voting purposes and demanded a single nationwide unit. The Board compromised by setting up seven divisions, despite the AFL's protests.[4] But after its plaintive argument that it was being gerrymandered, the AFL emerged the jubilant victor in six of the seven units.

Then the NLRB took unprecedented steps. It called the rivals into conference and worked out an agreement intended to take the heat off continuing conflict.[5] The winning unions agreed to represent all the workers fairly, no matter how they had voted, and to admit the minority to membership; where they were in the minority, they promised to refrain from attempting to bargain with the company as a separate group. Labor's failure to set its own house in order had brought a government agency into action along new lines, and apparently with great effectiveness.

Because of the fear that postwar reconversion may be hampered by jurisdictional disputes, the NLRB has introduced a new approach for the achievement of stability in collective bargaining. It has resolved the issues in a number of cases by the simple expedient of redefining bargaining units without going through the process of an election. For example, the Board intervened when the CIO Steelworkers came to grips with the AFL's International Association of Machinists. Instead of holding an election and letting the workers decide, the NLRB itself settled the issue of jurisdiction after a study of the job descriptions and the past history of collective bargaining in the plant.[6]

The implications went unnoticed by the labor leaders themselves. In effect, a government agency was now mapping out the territory in which unions could function and assigning authority to organize. With war production the objective, labor could not be left free to fight it out on the picket line or even at the NLRB ballot box. Some day the unions may awake to this new form of government intervention, brought on by their failure to keep the house of labor in order.

[4] Western Union Telegraph Co., 58 NLRB No. 233, decided October 23, 1944.

[5] NLRB Release No. R–6053, dated February 14, 1945.

[6] Northwest Metal Products, Inc., 59 NLRB No. 233, decided December 29, 1944.

The irony of labor's wartime experience lies in the fact that it was doing well by its old standards. The need for production made labor a more important sector of society than it had ever been in the old economy of scarcity, when industry was running far below, and the relief machinery far above, capacity. Yet the unions were doing poorly in relation to the potentialities of the moment and catastrophically when judged by postwar portents. In the United States labor commanded neither the respect nor the authority that its British counterpart had won. And not because American labor was soldiering on the job. In England, despite the strikes of really key workers—aircraft workers, coal miners, and dockworkers, all closely related to the war effort—no antilabor sentiment has welled up over the years. Instead, a Tory prime minister staffed his war cabinet with Ernest Bevin as Minister of Labor, Clement Attlee as Deputy Prime Minister, and Herbert Morrison as Minister of Home Security. He selected as ministers of cabinet rank A. V. Alexander, First Lord of the Admiralty; Sir Stafford Cripps, in charge of Aircraft Production; Hugh Dalton, head of the Board of Trade; and Sir William Jowitt, Minister Without Portfolio. In part this recognition was due to labor's organization in a political party as well as in unions, but also important was the strength inherent in its unity.

There has been nothing comparable in the United States. In the early days of the defense program, Roosevelt appointed Sidney Hillman of the Amalgamated Clothing Workers as associate director of the industrial mobilization machinery along with William Knudsen. The choice was a hard one for the President. Potential leadership that might have been drawn into service from the labor movement was almost invariably blackballed by labor itself because the individual necessarily belonged to one of the opposing factions. But Hillman's designation was unfortunate in many respects. He did not come from any of the mass production industries, those closest to the war effort. His personal history made him completely unpalatable to the AFL. After 30 years of going it alone, he had taken his union into the Federation just in time to join the fracas over industrial unionism. Even the CIO was none too thankful for his selection since he was the recognized leader of a faction within it. As a symbol of labor's participation in the war administration, the Hillman experiment was a failure and it was not repeated.

Had labor been united, it could have sat in government agencies clothed with authority. Instead, it was given representation largely in tripartite bodies like the WLB or the WMC's Labor-Management Policy Committee, where its votes could be paired with those of industry representatives, leaving the ultimate decision in the hands of public, nonlabor members. Even the maverick Lewis found a good word for the WLB because it "has actual bona fide representation of labor sitting in its councils with equal voice and vote with industry and the public." But nowhere did American labor stand at the helm clothed with that power of direction held by British unionists. No union spokesman sat in the President's cabinet. Both the AFL and the CIO preferred to see no union representative rather than one from a rival camp.

At first President Roosevelt was eager for the unification of labor. In 1939, on the eve of war in Europe, he invited the AFL and the CIO to send committees to the White House for the purpose of working out unity, but Lewis, considering the industrial movement too weak to gain dominance in a united federation, torpedoed the conference with impossible proposals. Later, when he was out of the CIO's high command, Lewis was willing but Roosevelt was not.

On January 17, 1942, less than two months after Pearl Harbor, Lewis, no longer CIO president, sent a startling letter to Bill Green and Phil Murray calling for a resumption of peace meetings and the "accouplement" of the two federations. With the nation at war, nothing could have been more logical, though Lewis was clearly inspired by more than labor's and the nation's needs. According to the newspapers, he had pulled his strings and everything was set, right down to the selection of officers for the new federation. Though he himself was to be only a vice-president, he felt sure of his destiny. Already he had made his peace with Bill Hutcheson; David Dubinsky's International Ladies Garment Workers Union was back in the AFL and cordially awaiting Lewis's return; William Green, weary of the buffeting, was longing for retirement from the hot seat of leadership.

But the broker forgot that it takes two to make a marriage.

Phil Murray, with pangs of regret for what might have been, no longer considered himself Lewis's aide. Smarting under Big John's unconcealed contempt, he read the final insult in Lewis's reported suggestion that the CIO president become the secretary-treasurer of the unified organization at a salary of $18,000 a year. "No one has the right to trade me for a job," blazed Murray, and demanded an explanation.[7] He got the legalistic reply that Lewis was still head of the dormant CIO peace-negotiations committee, a fact which was hardly justification for Lewis's failure to consult Murray and Hillman, his colleagues on the committee.

The new Lewis sensation brought frenzied opposition from many quarters—from those in the CIO who feared, or envied, his powers; the Communists who saw themselves reduced from a minority in the CIO to an infinitesimal fraction in a unified federation; and the Administration which detected a Republican plot in Lewis's tie-up with Hutcheson. Fanciful stories were circulated in labor circles and to the public generally that an isolationist cabal led by Norman Thomas, the Socialist leader, and Senator Burton K. Wheeler had hatched the plot with Lewis at a tea-party in the home of Dorothy Detzer, president of the Women's International League for Peace and Freedom.

Roosevelt, for all his preoccupation with the military misfortunes of the nation, took a hand. He had just carried off the "no-strike, no-lockout agreement" between industry and labor and now moved quickly for a "no-Lewis, no-unity agreement" between the AFL and the CIO. He summoned the top leaders to the White House and contrived a hasty substitute for Lewis's "accouplement." A six-man Labor Victory Board, with equal representation from the two organizations, was set up as a labor clearinghouse in matters affecting the war effort, until such time as organic unity could be effected. Though the Board never really functioned, it served its purpose of killing the Lewis proposal.

Lewis's next move was to add a third wing to the already divided house. In 1936, he had set up a special section of the

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[7] Quoted in *Labor Baron: A Portrait of John L. Lewis* by James A. Wechsler, op. cit. supra, page 179. The full story, including Roosevelt's counter-moves, is told by Wechsler and also by McAlister Coleman in *Men and Coal,* supra.

United Mine Workers, District 50, to organize those on the fringes of the coal industry, workers in coke, chemical and connected activities. Now he transformed it into a catchall union which his own associates described as a new labor movement. Its jurisdiction proved to be as broad as the American economy itself, and it trod with equal rudeness on the toes of AFL and CIO unions alike, though the Miners were still in the CIO. Members were enrolled from the chemical industries, public utilities, paper and pulp, railroads, aircraft manufacture, air transportation, housing materials, textiles, machinery and tools, lumber, food and dairy products.

The organization did not prosper despite the appeal of Lewis's militancy. Its highest membership claim was only about 200,000. A well-financed, highly touted drive among the dairy farmers disappointed Lewis's expectations as keenly as it excited the terror of his opponents. But the potential threat of District 50 remained constantly over the heads of CIO and AFL leaders. Part of the AFL's willingness to take Lewis back was fear of District 50's potentialities in the mad race for jurisdictions. Lewis was already at the post, with District 50 as his mount, though his preference was to ride the AFL against his erstwhile brothers.

Having lost his base of operations in the CIO as a result of his 1940 election bet, he had no choice but to seek another. He provoked the miners' withdrawal from the CIO, tormenting the hapless Murray with carefully barbed phrases and deliberately misconstruing his former lieutenant's replies. In connection with Lewis's "accouplement" campaign, Murray had said he would not be "Pearl Harbored"; Lewis accused Murray of calling him a Jap. The badgered CIO president mourned over the broken friendship, even stating obsequiously during a "trial" before a Mine Workers committee: "Reference has been made about Phil Murray calling John L. Lewis a Jap. Nothing could be further from the truth. I don't know how often it should become necessary for me to repeat and repeat and repeat that as a man and as a citizen and as an American, I have always regarded Mr. Lewis as without a peer in the realm of America." But a week later he told the Press Club in Washington, "Mr. Lewis is hell-bent on creating national confusion and national disunity."

The fight was out in the open. The CIO, still chary of attacking the great Lewis name, denounced "officials of the UMWA" for not helping the war. The miners retorted with a recital of their war record—bond purchases, enlistment of their members in the armed forces, the increase of coal production by 30 percent—and then took the offensive with a demand for the return of a million and a half dollars that the UMWA had given the CIO for organization purposes. Knowing full well that the CIO couldn't pay back the money, which had been a gift and not a loan, the miners stopped paying dues. Like William Green before him Murray was frozen out of his own union. At its next convention, the Miners formally withdrew from the CIO, and American labor was split three ways.

Two years after his departure from CIO councils, Lewis's ghost still stalked the convention halls. In 1944, when R. J. Thomas, president of the United Automobile Workers, rose to renominate Murray for the presidency, he blundered into what might have been mistaken for a renomination of John L. Lewis and extricated himself only with difficulty. "The man whom I want to nominate," he orated, "is a former member of the United Mine Workers. You know, all United Mine Workers are not alike. I know of one United Mine Worker who used to stand up and say, 'The UAW-CIO was a creature of my creation.' Well, that is not the United Mine Worker I am talking about. The former United Mine Worker I am talking about is a man of whom. . . ." But there was no eradicating Lewis's place in CIO history.

Lewis knew that the CIO had taken some heavy jolts. The loss of the miners' dues alone, $30,000 a month, and the withdrawal of half a million seasoned members created a void that could not easily be filled. But Lewis knew, too, that the close link between the CIO and the Administration during the war would mean an end to the militancy that had made it possible for the CIO to expand so rapidly. The AFL, on the other hand, could find it a lot easier to keep its members in line with government wage and job controls and to exact compliance with the no-strike pledge. The hard shell of age and tradition could protect the AFL in the face of wartime frustrations against rebellions from within. But the CIO was bound to suffer internal turmoil as its inexperienced membership took the blows of a war economy. Of course there were the Communists in the CIO, whom Lewis had left to Murray as a family curse; they would play their part in trying to hold down the lid on the impatient and irascible. But whatever their success, there would be wildcat strikes, destructive of the discipline which unions must maintain if they are to enforce collective bargaining.

The AFL, a veteran of the Fabian tactic, could afford to bide its time as it had done in many periods of its history. Of course, it had to keep an eye on the CIO to make sure that Murray didn't walk off with the credit for cracking the Little Steel Formula, a very real prospect in the fall of 1944. Sheer accident had put the case of the United Steelworkers and other CIO unions on WLB's calendar at the moment when Germany seemed about to totter. Like most observers, the AFL believed the steel decision would break the Formula. Only a month before, in September, 1944, Murray had told the Auto Workers' convention, "I am just as sure as I am living that the Little Steel Formula is going to be revised."

The AFL's WLB members, alarmed by the possibility, rushed into the Board with a resolution calling for postponement of any action on steel wages until the basic issue of the Formula itself was resolved. When that was voted down, its representatives, Matthew Woll and George Meany, announced they would participate in no further cases until the Formula was reviewed. For a few days they stayed away from meetings, but when Chairman Davis announced that CIO alternate members would replace them and thus restore labor's voting power, Woll and Meany ended their strike and returned to work. They then refused to join in the CIO's dissent but wrote a separate opinion attacking the majority who voted to stand by the Formula in the Basic Steel decision.[8]

The AFL was gauche on more than one occasion. When the CIO set up its Political Action Committee, the AFL leaders, even though most of them were also supporting the President, lost their heads again. They declared their policy henceforth would be absolute refusal to sit down with the CIO in any conference or meeting other than one called by the government. The AFL broke that high resolve, too, most notably when leaders from both wings of labor joined with representatives of management in signing a postwar peace pact. That co-operation was not permanent, either. A few months later, the AFL refused to meet with the CIO to discuss further details.

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[8] Basic Steel Companies, 19 War Labor Reports 568, decided November 25, 1944. Meany and Woll's separate opinion, dated November 29, is reported in 19 War Labor Reports 959.

Both sides tried to keep up the awkward pretense of ignoring each other but that routine was repeatedly interrupted by new outbursts. The CIO, for example, decided to carry the fight into the international arena. Its rival had been snugly though lackadaisically ensconced for decades in the International Federation of Trade Unions, doing little more than paying dues. The CIO, on the other hand, which would probably have participated more actively, was barred by a constitutional provision limiting representation to only one labor federation from a country. In 1944, at long last, it found an open door to international affiliation. The English unions, which were the dominant force in the IFTU after the destruction of the continental unions, had organized an Anglo-Soviet Trade Union Committee and invited the AFL to join. Green and his colleagues rejected the invitation with an oft-repeated statement that the AFL would associate only with free trade unions, not with the state-controlled Russians. When the Anglo-Soviet Trade Union Committee blossomed into the World Trades Union Conference held in London in early 1945, the CIO snatched at the occasion. The AFL stayed home.

At the conference Sidney Hillman castigated the AFL for keeping its distance. Concurring in the proposals of the Russians, he urged the launching of a new world labor body to replace the IFTU—"at once." But British labor was cautious. Its representatives looked over the assembled delegates who claimed to represent 50 million workers and noted that the Russian delegation was on the books for 27 million. Sir Walter Citrine, an official of the IFTU and author of a book on Russian unions which the delegates preferred not to quote, rose to his feet with British calm and courtesy. Mr. Hillman's views were constructive—in fact, quite constructive. But one could not necessarily share his strictures against the International Federation of Trade Unions, or for that matter, the American Federation of Labor. Before British unionists would consent to a new organization, they had a right to see the completed article. Citrine was followed by Walter Schevenels, secretary of the IFTU, who was a little more blunt in criticizing Hillman's "mystical desire" for labor unity. But before the sessions adjourned, the delegates accepted a CIO "compromise," the election of a provisional committee to draft a constitution for a new international labor organization. Despite their queasiness, the English trailed along.[9]

Back home, the AFL was furious. Green moaned that Hillman was planning to split world labor and that he had "allied himself with his Communistic friends in order to promote disruption and discord and plunge labor's economic objectives into the stormy sea of world politics."

As soon as it discovered that the CIO was playing in the international back-yard, the AFL began to mend its own fences. Emissaries went scooting down to the Latin American countries to cement relations with neighboring labor bodies, and the AFL chieftains were heartened by word that organizations numbering some nine million workers in the Western Hemisphere were ready to act against any alliance with the Russian unions. The AFL executive council announced that it would raise a million dollars to finance the restoration of free trade unions in liberated countries and the resurrection of the democratic German unions which Hitler had crushed. Finally, the AFL cried in vain for a meeting of the International Federation of Trade Unions.

The AFL and the CIO were now further apart than ever. Murray with a typical lack of originality began to talk to the AFL as Green had once talked to the CIO, hardly changing a phrase in the ponderosities that had grown so familiar. "The formation of the new world labor movement provides ample opportunity for the American Federation of Labor to come back into the international house of labor."[10]

The fight goes on. At the CIO's 1944 convention, Phil Murray thought he was holding out an olive branch when he said: "We have no interest in creating conflicts with our ancient enemies, and that is, of course, the frustrated and corroded leadership of the American Federation of Labor."

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[9] *New York Times,* February 12–14, 1945. See also *Report of the CIO Delegates to the World Trade Union Congress,* Congress of Industrial Organizations, Washington, D.C., April, 1945.

[10] *New York Times,* March 13, 1945.

At the same time, the AFL's Executive Council was telling its convention: "Division, discord, and disunity prevail within the ranks of labor. The situation has grown worse. . . . The cause of labor will not be well served if we face the postwar period divided, disunited and fighting each other. It is reasonable to conclude that we will be forced to meet a severe test when the war is over. No doubt the enemies of labor will unite against us. That means we will be compelled to face united opposition on the part of our enemies and changed economic conditions will seriously affect our efforts to maintain American wage standards and conditions of employment." The AFL chieftains said it; there is good reason to doubt that they understood it. For in the same report they upbraided the "deception and fraud" of the CIO, charged it with responsibility for the split, and went about the business of fighting Murray's group. Never did rivals so cordially invite each other to co-operation and repulse each other so vigorously.

During the war, they continued to widen the breach, doing injury to themselves. Each found occasion to denounce the National Labor Relations Board, Green concentrating his fire on Board Chairman Harry Millis while Murray assailed Member Gerard Reilly. The AFL even favored amendments to the Wagner Act which, though aimed at the CIO, tended to weaken the whole structure of legalized collective bargaining. John P. Frey of the AFL Metal Trades urged Congress to suspend the Wagner Act for the duration.[11] In order to prevent the CIO from challenging AFL jurisdiction in the Kaiser shipyards, Frey brought about the enactment of a rider to the NLRB appropriations bill which fixed a three-month statute of limitations on proceedings to set aside union contracts improperly made.

What made the gap unbridgeable during the war was the ability of both organizations to survive without too much difficulty. Expanding employment is always favorable to unionism. With the government pumping new blood into the American economy, the trade unions enjoyed the flush of health. Workers everywhere were waiting for the union organizer, no matter what his credentials. The race for membership, in fact, resulted in an all-time high for union rolls. By the end of 1944, the AFL had seven million dues-paying members, the CIO six million, according to the Department of Labor which accepted the rivals' claims at face value. The independent Railroad Brotherhoods, the unaffiliated United Mine Workers, and others, made up another two million. About a third of America's organizable workforce held union cards. Financially, too, the individual unions were doing well, the coffers being fed by dues payments made directly or through the check-off and by various assessments, some earmarked for health and welfare benefits, unemployment insurance, or general postwar union defense.

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[11] *Arizona Labor Journal,* May 5, 1943, reporting a speech delivered before an audience of AFL officials in Portland, Oregon.

Yet of all assets the two most important were lacking: the good will of the public—and the public of tomorrow, the returning servicemen—and the security that flows from a knowledge of where you're going.

On the eve of the greatest trial which American unions ever faced, the era of reconstruction after the most revolutionary experiences our economy has ever known, they stood baying at each other's shadow. As their fate was being written in the various reconversion plans, they could work out no common program of policies and strategies, even when they saw eye to eye. The only conclusion the AFL drew from the defeat of the Kilgore unemployment bill was that anything endorsed by the CIO must necessarily be rejected by Congress!

Today, the AFL and the CIO can be counted upon to nullify each other's influence, at least partially. The indignities they heap on each other protect neither. When William Green proclaims that there are Communists in the CIO and Philip Murray says there are racketeers in the AFL, the public concludes that the unions are a breeding place for Communists and racketeers.

Labor movements have survived the hostility of public opinion, have even grown stronger under the rain of blows. But they are certain to be weakened by their own self-doubtings, by their insecurities in a world they do not understand. Neither the AFL nor the CIO has a grip on tomorrow. The CIO parrots the liberal platitudes of yesterday, the AFL still resounds with the conservative shibboleths of the day before yesterday. The Buddhas of the AFL sit complacently waiting for reconversion, confident that the war babies will die. And the CIO looks hopefully for the day when the AFL will rot like a worm-eaten trunk and its skilled crafts will be overthrown by the revolutionary winds of technology.

In the ultimate tomorrow, American labor will of course be united. Behind the men who now wrestle with each other in the vindictive civil war are millions who have a stake in a stabilized, cohesive movement. But will that need be achieved through the annihilation of one by the other? Will unity come after the near-destruction of both in the erosion of national prosperity, or will it be the product of a new wisdom, not yet in evidence?

CHAPTER X

MEN WHO CAME TO DINNER—THE LEFT WING

In the heat of the battle between Montgomery Ward and the United Retail and Wholesale Employees Union, the workers were relieved of one burden common in such situations: the charge of communism. Nobody dreamed of accusing Samuel Wolchok, head of the union, of being a red, of trying to overthrow the government, of attempting to Sovietize American industry. But one group in the country went baying after the strike leaders and their international officers. It was the Communist Party, rechristened the Communist Political Association.

After Sewell Avery's refusal to abide by WLB orders, allegations of misconduct against the union for violating the no-strike agreement would have seemed out of place. Two newspapers did mention it—the *New York Herald Tribune* and the *Daily Worker*.[1] The former registered its criticism in a parenthetical comment and hastened to qualify it by adding that, after all, employer compliance with the WLB "is a *quid pro quo* for labor's no-strike pledge." The *Daily Worker* showed no such generous recognition of the union's position. "Wolchok Board Defies CIO Vow," was its headline on the story reporting the decision of the union's general executive board to support the Ward local's strike.

From the extremists of the labor movement, the ultimate in irreconcilability, the Communists had become the most docile of "class collaborationists," a term they once hurled at the conservative leaders of the AFL. Russia was in the war and nothing but the war mattered. The theory behind the no-strike pledge was noninterference with war production; ergo, there must be no strikes—not even against a mail-order house which refused to comply with government orders.

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[1] *New York Herald Tribune*, December 20, 1944; *Daily Worker*, July 5, 1944.

WLB Chairman Davis, on the other hand, said frankly to the Congressional Committee investigating the Ward seizure: "When these fellows walked out in Chicago against a plant which had defied the Board and the President, we could not say to them, 'You must go back to work for an employer who has defied the Board and, as a result, defied the law.' " But the Communists did. They even declared that public member Frank P. Graham had "compared the stoppage to John L. Lewis's 'four reprehensible strikes' in the coal mines." Actually, Dr. Graham had compared Avery, not Wolchok, to Lewis.[2]

The story of the Communist war on the Ward strikers reveals the eddies and circles made in the labor movement by Communist policies.

When the war broke out in Europe, the Communists were living in the shadow of the Hitler-Stalin pact. Communist unionists who had urged collective security resolutions in labor conventions now introduced antiwar manifestoes. Most unions continued to disregard them, but a few, particularly in the CIO, joined in the turnabout: Bridges' longshoremen, Curran's seamen, Quill's transport workers, Rathborne's communications association, Gold's furriers, Merrill's officeworkers.

The American League Against War and Fascism folded up and was supplanted by the American Peace Mobilization, with the union participants remaining virtually the same. Anti-Roosevelt rallies found those unions supplying their quota of demonstrators to join in hissing the imperialists. The consulate of the dying French Republic was picketed, Madison Square Garden rang with tributes to Soviet neutrality, Alfred Duff Cooper was booed in Boston and in the headlines of the Communist press. Labor leaders, like Sidney Hillman and David Dubinsky, who announced themselves in favor of the defense program were assailed as enemies of the workers. William Z. Foster likened Roosevelt to Hitler.[3] Earl Browder was given a long jail sentence for a trivial offense, protesting as he left for the penitentiary that he was being railroaded for his opposition to the President's war plans.

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[2] *Daily Worker,* December 20, 1944. Graham's statement was made on December 17, 1944, WLB Release No. 309.

[3] *New York Times,* April 17, 1941.

Then Russia was invaded. The National Maritime Union asked for Browder's release on the ground that he was necessary to aid in the prosecution of the war by welding national unity. The Communist Party became the only political organization in the country to advocate a declaration of war.

For the labor movement, the shifting party line was not without significance. The formation of the CIO in 1935 and its subsequent activities had given the Communists a chance to entrench themselves by concentrating their small numbers into the one organization. In the AFL, hardened by years of experience, they had failed miserably, and had even withdrawn from it for a while to form the Trade Union Unity League. But the CIO offered a fertile soil. Lewis at the helm, characteristically single-minded, was concerned with only one objective, organization. Ready to take help from any source, he found a reservoir of willing organizers in the active, fanatical Communists. When one of his associates in the CIO protested against the infiltration of Communist organizers, Lewis calmly asked: "Who gets the bird—the hunter or the dog?" As things turned out, Lewis got the bird—in the colloquial, not the sporting, sense. When he left the CIO, the Communists were still there.

However noisy, they were not the CIO, but they did hold a number of strategic posts from which they could wage war on brother unionists with whom they differed strongly. The Ward strike was an outstanding illustration.

For example, Harry Bridges, then facing deportation to Australia under a government decision that he was a Communist, wired President Roosevelt that despite Montgomery Ward's "extreme provocation" in refusing to obey WLB orders in favor of his own warehousemen, his members would not walk out.[4] This was a strange role for "Hell-fire Harry," as he was known on the West Coast docks. The Chicago union appealed to the workers in the Ward St. Paul store, organized by Bridges' Longshoremen's and Warehousemen's Union, not to handle orders that might be transferred there with a view to breaking the strike. The answer was a loud reaffirmation of the no-strike pledge and a refusal to "be a party to the game that was played in Chicago or anything like it. If anything, we'll be more affirmative than ever in our adherence to the no-strike pledge."[5]

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[4] *PM,* December 22, 1944; *Daily Worker,* December 23, 1944.

When the NLRB required the striking union to go through with an election after the first seizure of Avery's Chicago office, almost every labor organization joined the campaign to build up a majority in the voting. Had the union failed to win the election as everybody including Wards realized, the President would have been placed in the embarrassing position of having taken over Avery's property for refusing to sign a contract with a union which did not represent a majority of the workers. The AFL, CIO, and Railroad Brotherhood unions in the Chicago area inserted a joint advertisement in the newspapers urging the Ward workers to vote union. Bridges' longshoremen withheld their union's name from the ad.

The West Coast leftwing leader had his reasons. First, there was the party line which condemned all strikes, but of equal importance was the fact that for many years he had been conducting a running jurisdictional war with Wolchok, despite their common membership in the CIO. The sniping between the two unions made a joke of the CIO's principle of industrial organization. When Bridges insisted on helping Sewell Avery by filling Chicago orders from the St. Paul store, he was demonstrating in actual practice the criticism that CIO leaders had always leveled at the AFL's craft organizations for breaking each others' strikes. In addition the Communists had a longstanding quarrel with Wolchok who, in the days before the formation of the CIO, had fought them in his own local union in New York. During that fight, Wolchok was physically assaulted by the left-wingers and still carries an ugly knife scar on his face.[6]

Against a union leader with that background, Bridges did not hesitate to conduct a series of jurisdictional raids which led Wolchok to bring formal charges before the CIO's General Executive Board. In April, 1941, while the issue was up for decision, Bridges hurried to revise the constitution of his union to extend its claimed jurisdiction to "all workers employed in the warehousing, wholesaling and distribution industries."[7] The longshoremen's baling hooks began to reach far beyond the docks.

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[5] *PM,* May 17, 1944; *Daily Worker,* May 18, 1944.

[6] *Saturday Evening Post,* January 13, 1945, "Unwilling Warrior" by Frederick Tisdale, page 20 et seq.

Russia was not yet in the war and the Communists were still opposing the administration. They were even talking of refusing to load ships carrying lend-lease and war supplies overseas. Secretary of War Stimson announced that the Army planned to send a labor battalion to Hawaii to unload transports. The government's concern about what Bridges might do in the event of military involvement in the war was real, and when he enlarged his jurisdiction, the fears were deepened.

The CIO's General Executive Board had attempted in 1937 to settle the jurisdictional row. Lewis had drawn a geographical line between the two competing unions. Wolchok was told to stay east of the Mississippi, and Bridges, west. But the settlement had broken down in New Orleans for purely geological reasons: the delta is neither east nor west of the river. The longshoremen were there first and already had an organization. Getting into a political scrap with the local leaders, Bridges ousted them, only to see them take the rank-and-file into Wolchok's union which grew rapidly, in great part because it received support from Rev. Jerome A. Drolet, "the CIO padre," as *Business Week* dubbed him.[8]

Father Drolet is typical of another current in the factionalized labor movement of America, the Association of Catholic Trade Unionists. Shortly after his ordination, he had become active in labor problems. When the seamen went out in 1936, he took his missal to the wharfs, celebrated masses in strike halls, and defended the union in sermons. From that time on, labor organizations called on him regularly for assistance. For a number of years, he was one of those defenders of all things labor, but then he began to learn of the internal conflicts. By 1940, the young priest knew his left hand from his right and lined up with the anti-Communist elements in the CIO.

For some time now, Catholics have been active in labor affairs. The Church has provided a number of labor-minded men who function largely in the field of mediation—men like Monsignor John A. Ryan, the educator, Father John Boland who headed the New York State Labor Relations Board, and Bishop Francis Haas who presided for a time over the Fair Employment Practices Committee. These men, for the most part, are outside the unions, but their influence is great on important sections of the membership.

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[7] *New York Times*, April 9, 1941.

[8] *Business Week*, July 1, 1944, page 98 et seq.

With the shrewd sense of organization that characterizes all its activities, the Church set up many labor schools. The instructors are thoroughly pro-union. For example, the Rev. William J. Smith, S.J., director of the Crown Heights School of Catholic Workmen, spoke up with all the passion of a union organizer when General Motors placed ads in the daily papers calling for resistance to foremen's unionization. "Before the passage of the Wagner Act," he said, "practically all the large corporations made no effort to hide their hostility to the very thought of unionism. How could they hide it when they were hiring detective agents by the carload to break up the first signs of unionism, blacklisting loyal, union-minded Americans by the millions, turning the courts into service stations for issuing injunctions against the workers, poisoning public opinion by biased press releases, in some instances stacking their plants with tear-gas bombs, rifles, machine guns and other playful bits of peaceful paraphernalia, intimidating employees in a hundred different ways? Under the disguise of opposing the organization of foremen, are we now to see a return to those embittered days of the class struggle fomented by management?"[9]

Today Catholic colleges and universities are ahead of most institutions in giving courses in labor relations and the Church independently has organized many labor seminars for priests. That influence is being felt in the unions.

The Association of Catholic Trade Unionists has close contact with some of the top figures in the CIO, men like Philip Murray. In the AFL, Robert Watt, a Scotch Catholic, plays an important part. In the balance-of-power deals that keep the unions functioning, the ACTU has been a frequent participant. Many unionists are not too happy about this further factionalization of their movement and the ACTU is not always a welcome addition to the caucus-ridden labor conventions. Many who now co-operate with it are worried over the possibility that the ACTU is only the liberal missionary preceding a reactionary invasion and that the hierarchy will take over once Catholic influence is firmly established. The Communists of course see it as a dangerous rival, and Bridges has already felt its power in New Orleans where Father Drolet's energies, combined with Wolchok's shrewdness, have defeated him.

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[9] *New York World-Telegram,* April 24, 1945.

When Wolchok was tied up in the fight with Avery, Bridges and those allied with him in the CIO rushed to tighten the screws. The CIO Council of Wayne County, Michigan, adopted a resolution in which it said: "We urge the Montgomery Ward workers not to be further incited by Avery into repudiating labor's voluntary no-strike pledge." By coincidence, the Greater New York Industrial Union Council adopted a resolution containing the same wording, omitting the word *further*, thus demonstrating conclusively the independent origin of the resolution.[10] But the strongest opposition to the union's policy in the Ward case came from Communist-controlled locals in Wolchok's own international union, one of the most important of which was Local 65, headed by Arthur Osman. While the Ward workers were picketing, Osman released to the newspapers the text of a resolution which he predicted would be passed by a future meeting of his shop stewards, denouncing the international union for supporting the strike and thus "helping Sewell Avery's treasonous activities." Wolchok replied with a roar of "Treachery!" No verbal challenge is ever ignored in a labor free-for-all, and Osman's official paper came back with a banner headline: "Wolchok Opens War on No-Strike Pledge!"[11]

Osman's history, as recorded in Wolchok's paper, was typical of the fellow-traveling unionists. In 1940, his Local 65 had swung from collective security to support of the "Yanks Are Not Coming Committee." Five hundred members of the local, in a street demonstration, displayed banners opposing the "imperialist war" and pledging their efforts to "STOP this war." When the Communists organized a "Round-the-Clock Peace Vigil" to picket the White House, some of Osman's members were on hand and the official organ of the local proudly printed their photograph.

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[10] Resolutions quoted in *The Union Voice*, organ of Local 65, of the United Retail, Wholesale and Department Store Employees, January 21, 1945.

[11] The debate between Local 65 and its parent organization can be examined in *The Union Voice*, supra, and *The Retail, Wholesale & Department Store Employee*, organ of the international union, January 1, 1945, and subsequent issues.

Senators Wheeler and Nye were hailed in the columns of the local's paper, though later both were roundly abused and linked with union leaders whom the Communists opposed. Osman himself became a "peace candidate" for Congress on the American Labor Party ticket in a district captured by the Communists in a primary fight. His union paper hit frequently at Sidney Hillman as "the real fifth column in labor's ranks . . . the employer's representative in the CIO."

That year Roosevelt was on his way to the third term, after having initiated his defense program. Hillman was his labor representative in OPM, invested with direct responsibility for the prevention or breaking of strikes in defense industry. John L. Lewis, preparing to endorse Wendell Willkie, was still president of the CIO. When he broadcast his denunciation of Roosevelt and announced his support of the Republican candidate, the left-wingers rushed to the telegraph offices with congratulatory messages.[12] Joe Curran of the National Maritime Union applauded the speech; Harry Bridges hailed Lewis for acting once again with "the courage of a lion"; and Arthur Osman wired Lewis: "Your radio speech of last night was a masterful indictment of the Roosevelt Administration. We fully agree with your denunciation of its war mongering and its abandonment of the New Deal program. . . . Those who have heard the words of Roosevelt and who have studied the public addresses of the President, from his Chicago 'quarantine' speech to his Charlottesville 'stab in the back' address, will understand his true objective. It is war."

When Lewis came to the 1940 CIO convention to lay down the gavel as president, in keeping with his promise to retire if Roosevelt were re-elected, only one organized group insisted that he break his word and remain. Staged by masters in the art of public demonstration, the "draft Lewis" campaign was noisy and the ovation long. Osman shouted, paraded, and stomped with the others up and down the aisles of the convention hall, but to no avail.

A scant three months before the Nazis crossed the Russian border, Vito Marcantonio, the Congressional darling of the left-wing unions, told an antiwar rally in Madison Square Park that the workers must defeat the "Wall Street–Downing Street Axis."[13] He declaimed that another Four Horsemen of the Apocalypse were abroad in the world, and identified them as Hitler, Churchill, Roosevelt, and Mussolini. The names of Sidney Hillman, William Knudsen, Viscount Halifax, and Dorothy Thompson were booed; the names of John L. Lewis and Mike Quill were greeted with cheers.

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[12] *Labor Baron: A Portrait of John L. Lewis* by James A. Wechsler, op. cit. supra, pages 125–6.

Life was quite simple. If William Green did not want the Communists to control the American Federation of Labor in 1940, that was only because he wanted America to go to war. If Green opposed Communist control in 1944, it was only because he was an isolationist who wanted his country conquered by Hitler. Similarly, if Sidney Hillman wanted his country prepared for war in 1940, it was only because he wanted war with the Soviet Union; if in 1944, he wanted his country to win the war, then Hillman must have changed his mind.

Osman, in replying to one of Wolchok's reminders about the checkered history of Local 65's international outlook, announced that his group was willing in the past "to condemn the policies of Franklin D. Roosevelt and Sidney Hillman, when they were contrary to the interests of the nation, while it supports these same persons today, based on their policies today which are emphatically in the interests of the nation."[14] He did not explain in what respect Roosevelt and Hillman's war policies changed on the morning of Hitler's attack on Russia. Osman's followers, before that date, had been wont to chant this doggerel:

Oh Franklin Roos-e-velt
Told the people how he felt.
We damn near believed what he said.
He said, "I hate war,
And so does Elinor,
But we won't be safe till everybody's dead."

With the Nazi attack on the Soviets, the situation changed. Before many months were out, Hillman became the peerless leader, the warm spotlight of Communist amity swelling his silhouette to heroic proportions. And Lewis, abandoned by his erstwhile comrades, put his tongue in his cheek and solemnly demanded that Murray rid the CIO of the reds. After that Lewis was the chief whipping boy of the Communists. No sooner did the party line formulate a slogan than Lewis was painted as the devil who opposed it. If the party was in favor of keeping prices down, then Lewis was "out to do a job on the OPA," as Lewis Merrill, president of the CIO's white collar union wrote in the *New Masses*. When the coal miners opened their annual negotiations for a contract in 1945 and Lewis called for a strike vote under the Smith-Connally Act, Merrill wrote: "Personally, I think labor's best known romantic is going to get a poke in the eye and perhaps be clapped into jail. He sure has been asking for it." This enthusiastic picture of the coal miner's fate never materialized, of course. Merrill's attack concluded with a queer note which only the initiate could understand: "In his day Lewis has taken a pasting or two. But none of them compares to the one he took at Yalta."[15] Lewis must have been flattered to learn that he was on the agenda at the Crimea Conference.

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[13] *New York Times*, March 23, 1941.
[14] *The Union Voice*, supra.

The same mysticism that somehow made Lewis a victim of the Yalta agreement made Wolchok "an enemy of Teheran." Wolchok, unlike Local 65, had been a consistent supporter of the President and his policies. When the New York State convention of the CIO met in 1940, Sidney Hillman's main concern was to win an endorsement for President Roosevelt. The Communists, backing Lewis's repudiation of FDR, went into the meeting determined to block it. Led by Quill, they fought until they realized defeat was certain and then broke up the sessions with rioting that required the presence of the police. Osman had followed Quill; Wolchok had supported Hillman's floor leaders.

Once the Communists changed their position, they shifted from the most vigorous opposition to the blindest loyalty. But that also required shifting their opponents to the position they themselves had held. Wolchok, the warmonger, became Wolchok, the tool of the "America First gang." The *Daily Worker* pictured Sewell Avery as "the spearhead of these forces whose main objective is to throw the nation into strife and disunity. Such a chaotic home front, these men hope, will block the impending invasion of Europe and defeat President Roosevelt, should he run in the November elections. They are being fully supported by the group of Trotzkyites in the leadership of the striking union and a collection of Coughlinites, Social Democrats and Norman Thomas 'Socialists' who collaborate with them. These forces working within labor ranks, want strife, 'peace now' and to defeat Roosevelt."[16]

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[15] *New Masses*, February 27, 1945.

For all his determination to smash the Ward workers' union, Sewell Avery never resorted to this sort of inverted red-baiting, though the *Daily Worker's* charge had some fragments of fact in it. It was true that Norman Thomas had appeared one day in the Ward picket line at the invitation of the workers. It was true also that Francis Heisler, a prominent Chicago labor lawyer and the attorney for the Montgomery Ward local, had acted as counsel for members of the Trotzkyites, a sect which had split off from the Communist Party as a reflection of the internal Russian struggle which Leon Trotzky had waged with Stalin. This tiny group was even smaller than the Communist Party, though in fanatical zeal it was a close rival. Unlike its forbear, it was still loyal to Leninist dogma and clung to the revolutionary slogans which the Communist Party had once flaunted in red-painted banners on the Union Squares of the nation. Still Bolshevik in thinking and behavior, it was uninfluential in the labor movement, its membership consisting of a handful of opinionated, self-righteous intellectuals. The hatred between the Trotzkyites and the Stalinists was of the deepest hue, the kind that only men who understand each other's intolerance can reciprocate.

Just as opponents of labor had indiscriminately hurled the epithet Communist at any and every trade union, the Communists now labeled as Trotzkyite any opposition they encountered. In reality, there was only one important labor organization controlled by Trotzkyites, the AFL Teamsters in Minneapolis. There the Dunne brothers had built an aggressive organization which was heartily detested by both the Communists and the international president of the Teamsters Union, Dan Tobin. Being close to the Administration, Tobin had no difficulty in getting the Attorney General to indict the Dunne brothers and other leading Trotzkyites on charges of sedition. Even though the nation was not then at war, the defendants were convicted for saying precisely the same thing that the Communist Party was then shouting about America's preparedness. Despite the protests of the American Civil Liberties Union and other liberal groups, the Trotzkyites were packed off to jail, much to the glee of the Communists.[17]

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[16] *Daily Worker*, April 18, 1944.

In raising the Trotzkyite issue in the unions, the Communists were not merely engaged in perpetuating old feuds. They can be quick to forgive. Even Mayor Frank Hague, who had waged war on the CIO and on the Communists by barring their meetings from Jersey City, was able to rehabilitate himself in their eyes because he "supports the President and the government's win-the-war policy." Since Governor Charles A. Edison was fighting Hague, he was read out of the society of "honest" liberals. "Contrary to general belief, it is not true that Governor Edison represents the liberal wing of the Democratic Party in New Jersey," said the *Daily Worker*.[18] That role, apparently, was now being played by "I am the law" Hague. It was even implied that Edison was not in favor of winning the war, though he had been Secretary of the Navy in the days when Congressman Vito Marcantonio was voting against naval appropriations.

Governor Edison commented briefly: "I honor and respect Russia as a great nation. Hence, while it would undoubtedly solve a lot of problems for the people of New Jersey to get Tovarich Hague out of the State, I hope for Russia's sake that the Communist Party will not insist on his being made Ambassador to Moscow."

Morris L. Ernst, the civil liberties lawyer who had won the legal fight against Hague's order to deport CIO organizers from Jersey City, didn't think it funny at all. He recalled the Communists' efforts to prevent a legal victory, even to the point where one of the chief counsel of the CIO urged Lewis to drop the case before the Supreme Court could pass on it—and that at the very time when the lower court had paved the way by ruling in favor of the CIO. "Their only consistency has been their dishonesty," said Ernst.[19]

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[17] *Civil Liberties Quarterly*, September, 1941, and a pamphlet, *"Sedition!"* —both published by the American Civil Liberties Union. See also Dunne v. United States, CCA–8, 138 F. (2d) 137, decided September 20, 1943, cert. denied 320 U.S. 790, November 22, 1943.

[18] *Daily Worker*, July 6–7, 1943.

But there was method in the Communist policy. The only objective was to win the war, anybody was welcome, and no sacrifice of honor, dignity, or legitimate interest could be too great. Unions under their control boasted a perfect record of adherence to the no-strike pledge even though the consequences sometimes verged on the suicidal.

Most unions made sacrifices during the war, but there were occasions, like that which confronted the Montgomery Ward workers, when there was no alternative to striking. The War Labor Board recognized that fact in practice. Under no circumstances would the Board penalize the union if management was at fault. There were even industry spokesmen who agreed that in some circumstances management was to blame. Eric Johnston, president of the United States Chamber of Commerce, told this story: "I remember a strike out my way in the west. The strike leader was a smart man. When the newspaper reporters asked him what all this labor trouble was about, he said: 'Labor trouble? There's no labor trouble. The employees in this plant are just having a little management trouble.' And he was right. That particular strike was management's fault." [20]

But the Communists argued that the workers could win their demands by peaceful methods even where the WLB was helpless to use the powers of government. Whenever a union struck, they pointed to the happy state of affairs in their catalogue of "progressive" unions. They cited the Transport Workers Union as an example, but the union had been signally ineffective in getting New York's Mayor LaGuardia hauled up before the War Labor Board. They pointed to the American Communications Association which, of all the left-wing unions, had taken the worst beating in the war. When the NLRB was polling the Western Union workers to determine the bargaining representative, CIO unions rallied to their support. The United Automobile Workers alone contributed $10,000 to the organizing drive. UAW President R. J. Thomas, himself no party-lineman but willing to play ball, followed the Communist strategy in the election campaign. "One of the main issues in this election," he said according to the *Daily Worker,* "is the question of the no-strike pledge. On that issue the ACA deserves the support of every clear-thinking American. It has scrupulously maintained its no-strike pledge under many grave provocations and it promises to continue to do so. In shameful contrast, the AFL union has revoked its no-strike pledge, and has only recently threatened strikes against the government in complete disregard of the catastrophic effect of such action on the war effort." [21] Whether it was because the CIO was attributing a new boldness to the Federation or because the workers feared Communist domination, the result was a resounding triumph for the AFL.

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[19] Letter to the editor, *New York Herald Tribune*, July 16, 1943.

[20] *New York World-Telegram*, March 14, 1944.

Within the CIO, the Communists were constantly at war with union leaders who would not respond to their pressure. The best example was in the United Automobile Workers, the biggest union in America, numbering a million members. It was a juicy plum, well worth the efforts of an active Communist group which had been maneuvering for years to capture control. The first step in that direction was necessarily the ouster of Walter Reuther, one of the founders of the union. When Reuther was winning national prominence because of his proposals for the conversion of the auto plants to plane production, the Communist curse of warmonger rang in his ears. Now, with the Communists gone jingo, Reuther was painted a saboteur of the national war effort. But the attack failed.

In the 1944 convention of the union, the no-strike pledge was the major bone of contention. The delegates had before them three proposals: reaffirm the no-strike pledge; rescind the pledge; maintain the pledge for the duration of the war with Germany but rescind it in plants converted wholly to civilian production after Hitler's defeat. Reuther favored the third. He argued that the manufacturers were planning to wreck the organization; nowhere else had the employers shown such recalcitrance in living up to the grievance procedures contained in the union contract; repeated wildcat strikes had been provoked by refusals to hear complaints, discharges of shop stewards, and discriminatory transfers; employer spokesmen were issuing denunciations of the UAW, even making formal charges before the Senate Committee investigating the national defense program. Philip Murray, addressing the convention, had summarized the viewpoint shared by all the union members: "There is an organized, or evidences of, an organized conspiracy to destroy you, to weaken your influence, to undermine you, to scandalize your leaders, and through the usages of such designings bring about your destruction."

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[21] *Daily Worker,* January 5, 1945.

As Reuther saw it, the great test would come when the automobile industry moved back to the production of pleasure cars. Many months before, the auto manufacturers had begun to meet for the purpose of working out reconversion plans. The Army itself was talking about a 40 percent cutback in war production right after V-E Day. If the auto workers were not free to strike when the plants were back on peacetime projects, said Reuther, the union would be endangered. "Tell the reactionaries that if they are going to try to destroy our union we are going to fight back in the postwar period."

After lengthy, turbulent debate, the convention reaffirmed the no-strike pledge without qualification but it also submitted the issue, over Communist opposition, to a referendum vote of the membership. Both sides organized and fought with the all-out fury that is found only in internal labor disputes. In the end, the membership reiterated the no-strike pledge in both war and reconverted plants by a substantial majority.

In a sense, these controversies inside the labor movement were healthy. On many of the issues there was certainly room for conflicting opinion. Trade unionists could honestly differ about the effectiveness with which the War Labor Board was protecting union machinery and settling disputes. What transformed an otherwise wholesome display of democratic dispute into a blood-sapping civil war was the fact that differences were not questions to be resolved but weapons to be used for annihilation.

In individual instances the Communists were successful. When they were, whole unions came under the influence of the party line. They succeeded, for example, in eliminating James B. Carey from the leadership of the United Electrical and Radio Workers, but not from the CIO of which he remained the respected secretary-treasurer. After 1940, their victories became fewer. The sudden reversals in line were not good for the blood pressure of the rank-and-file, and even the military miracles of the Red Army were not enough to heighten their prestige.

On the other hand, where they were strongly entrenched, a new line made no perceptible difference to the membership. Part of the reason was the fact that the left-wingers enjoyed the respect of many workers because of their old record of militant unionism, opposition to racketeering, and insistence on nondiscrimination against any worker because of race. The subordination of union interests to political line, however, did not weigh too heavily against them. By far the strongest factor in the retention of their strength was the adroitness with which they were able to maneuver themselves into position in relation to the constantly scrapping trade union blocs. Because Lewis needed all possible strength in fighting Green, he welcomed the Communists into the CIO, though the constitution of his own union strictly forbade any Communist to hold a membership card in the United Mine Workers. When Lewis left the CIO, Murray was ready to lean on the left-wingers as a potential buttress against the dual threat from the AFL and District 50.

Even in the international and local unions which they dominated, the Communists were able to slide through only because their opponents were themselves divided into factions. They became a force in the United Automobile Workers because of the conflicts between the R. J. Thomas, George Addes, and Walter Reuther groups. In the AFL, on the other hand, there was less factionalism, a consequence of the Federation's longer history. The International Ladies Garment Workers, with a membership of some 300,000, many of them raised in the radical tradition, boasts that not a single Communist holds an official position. Even inside the CIO, the older international unions, like Sidney Hillman's Amalgamated Clothing Workers, are impervious to Communist infiltration. In his own union, Hillman's position is so secure that he can very comfortably forego left-wing support; in the national CIO, he needs them and tolerates them. And because Philip Murray is in much the same position, the Communists are on the loose.

But if the impression is that the left-wingers control the CIO, it is largely due to the Communists themselves. Their established tactic is to identify themselves and their program with labor. Once adopted, the party line is dressed up as the platform of labor and anyone who dissents is antilabor. This self-identification of the Communists with the labor movement is a kiss of death from which independent unionists shrink with horror.

On numerous occasions the Communists have sought to misrepresent their line as the official position of the CIO. Murray and his associates, for example, were irrevocably opposed to a national service act, but the Communists were for it. When President Roosevelt recommended its enactment, Joe Curran and Harry Bridges publicly endorsed it. Outraged, Murray descended on their heads and they hedged by saying they had not been properly understood. When the President proposed postwar, peacetime conscription, the Communists plugged for it, despite the opposition of organized labor.

The acrid atmosphere that Communist policy created within the CIO is illustrated by the reaction of the American Newspaper Guild, which was once itself under Communist influence. The "Harry Bridges Victory Committee" had asked the Guild's aid in the fight to prevent the longshoreman's deportation. The union's international executive board turned down the request and its president, Milton Murray, made public this statement:

> "In the first instance, some years ago it appeared that the attack on Harry Bridges was an attack upon him because of his labor activities. In the light of that attack, I was one of his defenders. I thought it incumbent upon all labor to resist such an attack for such a purpose. Subsequent developments have made it clear that Harry Bridges is not a leader of labor. He is a mis-leader, and he is a wrecker of honest trade unionism. He has demonstrated this on the West Coast, where he has flouted the established and announced policies of the CIO.
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> "At a time when national service legislation was proposed and was being desperately opposed by the CIO, Harry Bridges took it upon himself to support that legislation. At a time when labor is struggling desperately to maintain its no-strike pledge under extreme provocation, and solely because of labor's intention to win this war in spite of the Averys and the Girdlers, Harry Bridges sold out the working people of this country with a quisling announcement that he favored continuation of the no-strike pledge after the war.

"At a time when the United Retail, Wholesale and Department Store Employees were struggling to oppose the most fascistic and reactionary elements in our country, Harry Bridges, and certain elements in the organization which he leads, allied themselves with those fascistic and reactionary elements and did their utmost to destroy the efforts of honest trade unionists.

"I see no compulsion upon us or upon any other believers in trade unionism to support, in any fashion whatsoever, this quisling in our ranks. I therefore oppose taking any action in favor of Harry Bridges."[22]

The Communist move toward extending the no-strike pledge into the postwar period was disturbing to many labor leaders. They saw in it a disarming of labor in the era when labor was likely to be at its weakest and would need every possible weapon for its defense. Bridges' proposal for a postwar no-strike pledge dropped like a bombshell in labor circles. At first not even the veterans of the party line spoke up to endorse the suggestion. For a while there was silence, then slowly the line began to unfold. The *Daily Worker* under a two column head reported: "Continue No-Strike Pledge After War, 'UE' Leader Urges." With obvious approval, the article quoted Albert J. Fitzgerald, president of the United Electrical, Radio and Machine Workers, as telling a Minneapolis conference of industrial and business leaders, city government officials, and representatives of CIO, AFL, and railroad unions, "As far as I am concerned, the no-strike pledge was not made just for the duration of the war."[23]

Trade union leaders watched this line develop with some trepidation. The only explanation for it, so far as they could see, was that Russian policy after the war would call for extensive purchases in the United States to repair the devastation wrought by the Nazis, hence uninterrupted production.

Then the policy changed. Germany was defeated. Soviet and American foreign offices no longer saw eye to eye. Again the line was reeled out from abroad, this time through Jacques Duclos, a French Communist leader who upbraided his American comrades for abandoning the faith.[24]

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[22] *The Retail, Wholesale & Department Store Employee,* March, 1945.

[23] *Daily Worker,* April 2, 1945.

[24] *Daily Worker,* May 24, 1945.

The alliance with free enterprise was over. Communists were told that Earl Browder, the party leader, had made a serious mistake and the *Daily Worker* opened up its columns for public repentance. William Z. Foster, who had kept silent about his disagreement with the national unity policy, was brought back into the limelight. While denying that the Communists would now follow a policy of inciting strikes, he swung the left-wing unionists in a new direction with the statement that "organized labor, and with it the CPA [Communist Political Association], may be depended upon to live up to its no-strike pledge for the war's duration. But in order to do this effectively, the government will have to protect the economic conditions and trade union rights of the workers. To prevent strikes in wartime is not the task of the trade unions alone; the government and the employers also bear a no less heavy responsibility." [25] Shortly thereafter, in a dispute with surface transportation companies, the members of the Transport Workers Union slowed down on New York's bus lines, a signal that the honeymoon was at an end.

But no matter which way the Communists turned, they could not shape the basic patterns of American labor. Just as they were unable to drive the unions into large-scale defense strikes in 1940 and 1941, they would not have succeeded in preventing strikes after the war even if they had persisted in that policy. American unions are too self-interested to become a mere arm of Soviet foreign policy, and the Communists are not numerous enough to dominate the labor movement, though they may be strong enough to bedevil it.

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[25] *Daily Worker,* June 2, 1945.

CHAPTER XI

THE RICH UNCLE—FDR

When Avery was removed from his office in April, 1944, Republican leaders were convinced that at last the President had gone too far. Now fear would be spread in the heart of every little businessman and their votes would surely overwhelm the "labor president."

But as the campaign progressed, references to Sewell Avery and the injustices he had suffered at the hands of the Washington dictator became fewer. Even before election day, the G.O.P. realized that, if anything, the Avery incident meant more votes for Roosevelt, that the labor movement, wavering somewhat in its loyalty to the President, had been brought closer to him by the Battle of Chicago.

The President's decision to seize Montgomery Ward was far from a bold stroke. For a long time he ignored the entreaties of the union, hesitating to take action. Had the workers not gone out on strike, it is doubtful that he would have ended his vacillations. Only when the strike seemed likely to spread to other unions did he instruct the Attorney General to move. But he was ready to retreat quickly. Grasping at the first chance, he surprised everybody—and most of all, the union—by suddenly giving the business back to Avery.

The way had been paved when, contrary to established law, the President's strategists compelled the union to go through an NLRB election to prove that it was still the majority representative. A few hours before the voting was completed, Roosevelt told a press conference on May 9, 1944: "If the election shows that the union does not have a majority of the employees, that will end the case. On the other hand, if the election shows that the union has a majority, then the management has declared that it is willing to continue its contract and that will end the case." The union won the election and Avery promptly declared, "We have never made any such statement and we never intend to." With that, the union was right back where it started. Even in the second seizure, the Army, which had taken over for the purpose of carrying out the WLB's directives, did nothing to enforce maintenance of membership or install the wage increases.

The President had good political reasons for pulling out. The case was in the hands of a local district court on an application made by the Attorney General to enjoin Avery and his associates from interfering with the government's conduct of the business. No one, except Judge William H. Holly, former attorney for the National Women's Trade Union League and onetime law partner of Clarence Darrow, knows what the decision would have been. Certain it is that the President would not have liked to carry the handicap of an adverse court ruling into the fourth-term campaign. Whatever the reason, he washed his hands of the dispute on the ground that the union had proved its majority. Then, for six months, he and his officials sat back, until the union walked out again in disgust. The President was forced once more to intervene and the case finally moved through the courts.

One of the President's real domestic achievements in the war was the amazing dexterity with which he kept the loyalty of the trade unions though all the pressures of the times tended to make labor revolt. The disparities between classes were being widened by the war. The whole stabilization structure was predicated on the frank recognition of social groupings. Different rules applied to the workers whose income was subject to control by the War Labor Board and to salaried employees or executives whose pay was policed by the Treasury. The OPA, even when ineffective, was the poor man's friend, the rich man's foe. Each new war control underscored economic distinction: the big companies got war contracts and priorities, the little companies got the Smaller War Plants Corporation. Ordinarily all this would have heightened class war, particularly since government regulations were restraining wages while profits swelled. But the occupant of the White House had a firm grip on the union leaders.

"The outstanding accomplishment of the Roosevelt Administration on the home front," said the *Journal of Commerce,* a critic of Roosevelt's policies, "has been to keep back the tide of inflation. . . . President Roosevelt was particularly adroit in compromising with organized labor in its persistent efforts to break through the line and secure sweeping wage increases." [1]

To a great extent, the President was successful in handling labor because he had built up a backlog of good will. His New Deal program, largely the work of his first term in office, won him three additional terms and ultimately a permanent place in labor's devotion. So deep was labor's confidence in his intentions and his works that he was able with impunity to announce that Dr. New Deal was dead and had been succeeded by Dr. Win-the-War. By the time the voters started the parade to the polls on Election Day of 1944, the New Deal group was a virtual government-in-exile, vainly trying to reach the ear of "the Boss." The few in union circles who had misgivings saw no alternative.

Aside from the handful of Republican party-linemen in the AFL, the only notable union leader who insisted that Roosevelt was not a "labor president" was John L. Lewis. Though neither Roosevelt nor Lewis can be said to have won the running fight, there is no doubt for whom the masses cheered.

It is frequently said that Lewis went to war against Roosevelt because the President would not make him Secretary of Labor. The fact was that Lewis had been offered the Secretaryship of Labor by Coolidge and had rejected it as beneath the high status of president of the United Mine Workers; it is hardly likely that he would have surrendered the presidency of the CIO for an office which had deteriorated in the hands of Frances Perkins.

Sometimes Lewis's opposition is attributed to his support of isolationism, but it is more likely that Lewis became an isolationist because of an already crystallized antipathy to the President. Whatever may be said of Lewis, he has never proved himself an ardent exponent of any political doctrine, having been a loyal Coolidge supporter in 1924, a devout Hooverite in 1928 and 1932, a belligerent Rooseveltian in 1936. James Wechsler, tracing the history of the split between these two leaders of men, says that Lewis proposed in either late 1939 or early 1940 that he be the President's running mate in the third-term campaign. If so, he must have known that the common platform would not be isolationism. Wechsler suggests that the break came because Roosevelt laughed at the suggestion. For all Lewis's vanity, his many successful labor campaigns demonstrate that he was capable of shrewd calculation. He must have appreciated that, risky as a third term was, his place on the ticket would have defeated Roosevelt.

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[1] *Journal of Commerce,* April 13, 1945.

Actually, Lewis's break with Roosevelt came much before the 1940 election, centering around the crushing of the Little Steel strike in 1937, the first setback suffered by the rising CIO. On Memorial Day, the Chicago police had shot down picketing steelworkers in one of the most violent days of recent American labor history. The President's only comment was "A plague o' both your houses!" Lewis made no formal statement, contenting himself with asking the newspapermen: "Which house, Hearst or duPont?" Then, with the Little Steel strike lost, Lewis went on the air in a Labor Day speech to make one of his few poignant utterances: "Labor, like Israel, has many sorrows. Its women weep for their fallen and they lament for the future of the children of the race. It ill behooves one who has supped at labor's table and who has been sheltered in labor's house to curse with equal fervor and fine impartiality both labor and its adversaries when they become locked in deadly embrace."

But labor, unlike Israel, was apparently quick to forget its sorrows. By 1944, the bloody episode was no longer remembered. Curiously, one of the CIO Political Action Committee's leaflets, intended to demonstrate labor's freedom under the New Deal, featured a photograph of strike violence with the notation that it couldn't happen under Roosevelt. The sluggish research department of the Republican Party never spotted it as a picture of the Memorial Day Massacre.

Lewis himself, being a practical politician, a factor overlooked in references to his behavior patterns, was amenable to the efforts made by White House subalterns to patch up the differences between him and the President. For a time it looked as if the two would bury the hatchet. But with the recession of 1937–8 and the President's failure to adopt Lewis's public works program, the rift was widened. In addition, Lewis felt that Roosevelt was needling him with attempts to enforce a labor unity for which the CIO was not yet prepared. By 1940, both had moved far beyond the possibility of any rapprochement and the miners' leader went calmly about the business of fortifying his own ego by defiance of the President.

But Lewis was the exception among labor leaders—a notable one only because of his personal color and power. Most union leaders were for the President. He had given them the National Industrial Recovery Act, the National Labor Relations Act, the Wage-and-Hour Law, unemployment insurance, old age pensions, and similar legislation. When he had finished with those, the wellsprings of his domestic program appeared to have run dry. From that time on, his policy was to defend what he had already built by compromising with those who would have torn it down. While England's conservatives were moving to a new experimentalism under the propulsions of war, Roosevelt was neither suggesting nor preparing a new program. But hopefully labor waited for the sign that never came.

In conducting the war, the President had consciously set out to win to his side the men who had been his keenest antagonists. War is a bureaucrats' game, as Roosevelt plainly saw. To disarm the opposition, a feat he accomplished only partially, he summoned the "economic royalists" to take over the government agencies. Labor watched uneasily. With monotonous frequency, the labor press recited the names of big businessmen in charge of the War Production Board, the industry advisory committees, and other war agencies. Again and again, the unions charged them with using their offices to protect their own economic interests as against those of labor. Efforts to get greater union representation in such agencies were never realized, partly because of labor's own inability to decide who was the proper representative of the workers, the AFL or the CIO; partly because of the opposition of the already entrenched business leaders. At the 1942 convention of the CIO, Murray with characteristic enthusiasm relayed to the delegates promises of augmented representation which he claimed WPB Chairman Donald Nelson had given him. A few weeks later he accused Nelson of welching.[2]

On basic national labor policy, the unions clearly did not see eye to eye with the President. His rejection of the closed shop, his endorsement of antistrike legislation despite his veto of the

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[2] *United Automobile Worker,* December 15, 1942.

Smith-Connally Act, his qualified, then unconditional, then vigorously reiterated endorsement of national service legislation, would have brought any other President into headlong conflict with the unions. Only Roosevelt's hold on the rank-and-file, coupled with his cordiality to the labor leaders, prevented what would have been a major blow-up. Far from losing the unions' support, the President was able to inspire them to the most vigorous political campaigning they had ever done while at the same time they were denouncing his key lieutenants.

Roosevelt's most important agents in carrying out the wartime economic policy were James F. Byrnes, who functioned as Economic Stabilizer and later as Director of the Office of War Mobilization and Reconversion, and Judge Fred M. Vinson, who systematically moved up into Byrnes's place whenever the latter made way. Both were Southern Democrats. Despite their Congressional records which indicated at least passive support of the President's New Deal policies, labor eyed them suspiciously. Their long participation in legal practice and politics had identified them fairly closely with the emerging Southern industrialists. Marquis Childs has summarized Byrnes's philosophy as follows: "He has always steered a careful middle course between New Dealism and old-fashioned party loyalty. As a Southerner in the Senate, he was closest to the group that looked with suspicion on New Deal reforms. Yet he did not cut himself off from Senate liberals who carried the burden for Roosevelt and reform."[3]

Byrnes brought to the Office of Economic Stabilization and then to the Office of War Mobilization and Reconversion an honestly conservative approach. Though he possessed no understanding of labor's basic motivations, he could be offended by the violence of strike-breakers and finks. When the LaFollette Committee uncovered the gangsterism used against pickets in labor disputes, Byrnes put his name to the resulting legislation which made it a felony to carry thugs across state lines for purposes of violence against strikers. Yet his record of a year and a half in the Supreme Court was hardly what labor expected from a Roosevelt appointee, particularly after the President's fight to reform the Court.

Byrnes's two most significant decisions found him firmly op-

[3] *New York Post,* April 4, 1945.

posing the liberals' interpretation of labor legislation. He was the author of the Belo decision[4] from which Reed, Black, Douglas, and Murphy dissented. According to Byrnes, employers could compel their workers to sign a new kind of yellow-dog contract, in effect waiving the overtime pay made mandatory by the Wage-Hour Law. As Justice Reed described the effect of the Byrnes decision, by a mere "verbal device, astute management may avoid many of the disadvantages of ordinary overtime, chief of which is a definite increase in the cost of labor as soon as the hours worked exceed the statutory workweek. If the intention of Congress is to require at least time and a half for overtime work beyond a fixed maximum number of hours (40, 42 or 44 hours), that intention is frustrated by today's holding." Subsequently the Supreme Court whittled down the decision by "distinguishing the cases" so that the "Belo doctrine" is now of no practical consequence.[5]

Equally offensive to labor was Byrnes's opinion in the Southern Steamship case.[6] The National Maritime Union had won an NLRB election and was duly certified as the collective bargaining representative for the crew of the *S.S. City of Fort Worth*. In 1940, after six months of futile efforts to get the company to bargain, the seamen struck while their ship was docked at Houston, Texas. The strikers engaged in no violence, doing nothing more than squatting about the poop deck. Their only offense, as Byrnes indicated, was that "when the captain ordered them to return to work, they refused." Several strikers were then discharged, but the NLRB ordered their reinstatement on the ground that the strike had been occasioned by the employer's unfair labor practice, the refusal to bargain. Byrnes, speaking for a majority of the Court, held that the NLRB order was unenforceable because the strikers were guilty of mutiny.

From such judicial pursuits the President summoned Byrnes to take over the hard task of economic stabilization, involving the setting of basic policy for both the War Labor Board and the Office of Price Administration. Washington observers reported that the President had deliberately swept out the last of the New Deal group and replaced them with men of a conservative bent.

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[4] Walling v. A. H. Belo Corp., 316 U.S. 624, decided June 8, 1942.

[5] Walling v. Helmerich & Payne, Inc., 323 U.S. 37, decided November 6, 1944; Walling v. Harnischfeger Corp., 65 S. Ct. 1246, and Walling v. Youngerman-Reynolds Hardwood Co., Inc., 65 S. Ct. 1242, both decided June 4, 1945.

[6] Southern Steamship Co. v. National Labor Relations Board, 316 U.S. 31, decided April 6, 1942.

This swing to the right from left of center caught labor off balance. The nation was soon to lay the foundations for the postwar economy, and labor was without its champion as domestic issues were being resolved. Both Byrnes and Vinson, the men in charge of wage and price policy, were keenly aware that they were not only holding the line for the duration of the war but were setting up a permanent framework for American business. Originally authorized to act by Executive Order, Byrnes had obtained legislative authority to set reconversion policy and did not hesitate to use it. He repeatedly ignored other agencies that might be concerned with the same problems, taking matters into his own hands. Without consulting McNutt, for example, he issued decisions on manpower control, ordering sanctions against employers and workers. Philip Murray protested publicly, while McNutt grumbled in the privacy of his office over Byrnes's policy of bringing the brass hats into the various agencies to supplant civilians with a less authoritarian point of view.

But even more painful to labor was the activity of the President's Economic Stabilizer. Judge Vinson's background was similar to Byrnes's, but, unlike the War Mobilizer, he had a clearly-defined economic philosophy. Given a job to do, he concentrated fully on it, regardless of the political consequences. His repeated intervention in wage cases roused the poorly concealed anger of the WLB's public members as well as labor's screams of resentment. Union leaders complained hotly that they were spending months preparing and presenting economic data to the Board only to have the decision made by Vinson who had heard none of the facts.

Judge Vinson's pressure on wage questions had come close to starting a railroad walkout that would have tied American war production into hopeless knots.[7] The Railroad Brotherhoods had presented wage demands through the mediation procedure of the Railway Labor Act. An Emergency Board had been appointed by the President and was taking testimony when the famous "Hold-the-Line" Order of April 8, 1943, was issued. Assuming that the Order applied to the railway workers, the Board approved only a small increase of eight cents an hour for nonoperating employees which the railway unions rejected as inadequate. Roosevelt called the parties to the White House and pleaded with them to accept the Board's findings. He was persuasive and the unions yielded.

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[7] *Yearbook of American Labor, Volume I, War Labor Policies,* Philosophical Library, New York, 1945, Chapter XVII by Malcolm Keir.

Then, in one of the queerest snafus in New Deal administration, Vinson made his entrance. He announced that the agreement in which his chief had participated "shall not become effective." It was later learned that before the unions had accepted the President's plea the carriers had privately submitted a brief to the Economic Stabilizer. Without a word to the unions and without examining the 6,400 pages of testimony gathered by the Emergency Board, Vinson ordered the pay increase cut from eight to four cents an hour. When he limited the operating unions to the same amount, all the nation's railroadmen were ready to fight.

The nonoperating unions went right to Congress for relief. Both Houses adopted resolutions affirming the workers' position that the Railway Labor Act alone governed their cases and that the Stabilization Act did not supplant the findings of an Emergency Board operating under the Act—all of which meant that Vinson was without authority to halt the increases. Meanwhile, the unions polled their members and reported almost unanimous approval of a strike. Faced with a stoppage that would have crippled the war production program, the President offered to arbitrate the issues personally. Three of the five unions refused and the Army, on orders from the President, seized the roads. The unions continued to negotiate privately with the companies until an agreement was reached. Then the President and Vinson closed the muddled chapter by approving the settlement which gave the workers more than Vinson had originally been willing to allow.

In proceedings before the WLB, both AFL and CIO unions were always afraid of what Vinson might be doing backstage. Labor members of the Board indignantly charged that Chairman Davis, honestly inquiring into the facts, was being frustrated by aides who tipped off Vinson as to what the Board was planning to do in its decisions and that Vinson would then intervene to halt the action before it was made public.

The conflict between Davis and Vinson broke into the open on the so-called "fringe issues."[8] Hamstrung by the Little Steel Formula, the unions had taken to asking for increases that did not affect base rates but nevertheless added to the payroll. For example, the unions would demand higher rates for work done on the less desirable shifts, paid vacations, job reclassifications, and the like. The WLB would approve, subject only to the condition that the Economic Stabilizer must consent if price increases might result. With the important textile and packinghouse cases pending, Vinson had gotten word that the WLB planned to grant fringe increases, particularly shift differentials. The Board had already done so in the Basic Steel case which, without breaking the Little Steel Formula, had added to the workers' pay envelopes.

Though he did not challenge the steel award, Vinson indicated he had no intention of letting the WLB continue that policy. In a confidential letter, inspired by the prospect of similar action in the textile and packinghouse cases, he instructed Davis to rule against fringe increases in future cases.[9] Vinson argued that as the Economic Stabilizer he had absolutely no authority to approve if price increases were involved and that the WLB must flatly turn down such requests. He rested his case on a technical interpretation of the language which the President had used in the "Hold-the-Line" Order.

While labor champed at the bit, Davis and Vinson exchanged memoranda presenting their conflicting versions of what the President had meant. If the wording of the Executive Order were the sole issue, either of the two officials could have turned to the President for a clarifying amendment. But neither was really concerned with the language; both realized that the issue was purely economic.

That Vinson was concerned with the economics rather than the legalisms became clear from an examination of his earlier correspondence with Carroll Daugherty, the Wage Stabilization Director of the WLB. Shortly after the Basic Steel decision in November, 1944, the San Francisco Regional WLB had followed the example of the National Board and awarded a shift differential in an industry which had never paid one before. There was an appeal to the National Board but it refused to reverse the order. Since the employer was requesting an increase in his price ceiling to compensate for the increased labor costs, the case went automatically to Vinson who turned thumbs down.[10]

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[8] *New York Herald Tribune,* February 12, 1945, which mistakenly assumed that WLB was in agreement with the Stabilizer.

[9] Quoted in an editorial, *New York Times,* February 19, 1945.

Significantly, he did not overrule the WLB pay increase on the ground that the "Hold-the-Line" Order made it mandatory but relied purely on economic grounds—prevailing practice in the area and the industry. Six days later, he sent his fringe issue ruling to the Board forbidding the increases if they involved price rises. Though relying on the language of "Hold-the-Line," it was clear that his purpose was to halt the WLB's tendency to rationalize the wage structure.

Because of Vinson's instructions, the Board issued no wage directives from December 12, 1944, to February 20, 1945. While the issue remained unresolved, the textile and packinghouse workers were waiting at the WLB's door for their decisions. A year had already passed since the cotton textile workers had brought their case to the Board, a year and a half since the packinghouse workers had filed their papers. The latter accused Vinson of "changing the rules in the middle of the game" and talked of striking, but an off-the-record appeal from Army officials that the country's meat supply was at an all-time low stopped a walkout.

No such pressure was available against the textile workers. Their president, Emil Rieve, charged that the Southern mill owners had been lobbying with Vinson and Byrnes, and released the text of a "confidential report" written by William P. Jacobs, the executive director of a manufacturers' association.[11] Jacobs told how he had conferred with Byrnes about the textile case and declared that the War Mobilizer had arranged a meeting with Vinson who was sympathetic but noncommital. "From the pressure that we know has now reached him," wrote Jacobs, "it is possible that for political reasons he may be forced to indefinitely hold the matter or he may recommend a basis somewhat lower than the WLB would authorize. From conferences which I held I know that Justice Byrnes, Senators George, Maybank, Russell and Governor Gardner [chairman of Byrnes' Advisory Board] and perhaps others have insisted that he do nothing which will wipe out the traditional North-South differential."

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[10] California Processors and Growers, 20 War Labor Reports 29, decided October 16, 1944. Vinson's letter reversing the Board is not available for public inspection, but the key paragraph is quoted in a dissenting opinion in California Packing Corp., Tenth Regional WLB, Case No. 111–9919 (10–D–617), decided December 27, 1944 but not reported in War Labor Reports.

[11] Textile Workers Union release, dated February 12, 1945.

Rieve then resigned as an alternate labor member of the WLB, announced that the no-strike pledge of the cotton textile workers was rescinded and told a press conference: "We traded the no-strike pledge for an impartial board—not for Vinson."

Now the WLB was in the midst of the worst crisis it had encountered since Lewis's portal-to-portal strike. Judge Philip L. Sullivan had just ruled in the Chicago district court that the President had no right to seize Montgomery Ward. If sustained by the higher courts, the decision would have stripped the Board of effective jurisdiction over 15 million workers. At the same time, Economic Stabilizer Vinson had thrown a monkey wrench into the Board's apparatus by limiting its authority to grant fringe increases. Labor, boiling under the lid of the no-strike pledge, was asking itself what good the WLB was anyway.

The Board's answer was to release the textile and packinghouse decisions.[12] Fringe awards were granted in both cases and the textile workers got a minimum wage of 55 cents an hour in addition. But because of Vinson's order, the decision could not be made effective, as the Board said, until "the questions of procedure" raised by Vinson and "now under discussion between the Economic Stabilization Director and the Board have been resolved." The Board even suspended the effectiveness of the 55-cent minimum, which was not involved in the Vinson order: it preferred to pass the whole buck to the Stabilizer. So far as labor was concerned, however, the Board's release of the two decisions in a state of suspension only served to confirm the charge that the WLB was not really the seat of authority.

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[12] Twenty-three Southern Cotton Textile Companies, 21 War Labor Reports 793; Big Four Meat Packing Companies, 21 War Labor Reports 652, both decided February 20, 1945.

President Roosevelt returned from the climactic meeting of his career, the Yalta conference, to find labor in an ugly mood. It was not the first time he had come home to discover that his subordinates had whipped up a storm. When he got back from Teheran and Cairo, the railroad workers were up in arms. Now, he was confronted not only with the possibility of labor revolt but with open conflict between the chairman of the War Labor Board and the virtually all-powerful Economic Stabilizer.

Roosevelt made no effort to resolve the issue of principle even though it centered on the wording of his own executive order. Instead, he turned to purely political expedients. Congress had just blocked Henry Wallace's appointment to head the Reconstruction Finance Corporation as the price for his approval as Secretary of Commerce. Roosevelt moved Vinson over to the RFC and promoted Bill Davis to the post of Stabilizer. Congress was satisfied with Vinson as RFC head, and labor felt that Davis was an improvement over Vinson.

Before moving out, however, Judge Vinson was asked by Davis to settle the fringe issue question. In his last official act as Stabilizer, the Judge retreated from the principle he had laid down. Instead of continuing to assert that shift differentials could not be granted if they involved price increases, Vinson set an arbitrary ceiling on the amount of such awards. That was not quite what the WLB or the unions wanted, but with Davis as the Stabilizer, labor felt it would get as much in the future as the WLB had been willing to give in the past. And eventually, Davis did revise the ruling on fringe issues.[13]

Meanwhile, War Mobilizer Byrnes was beginning to encounter opposition. The members of the Advisory Board to the Office of War Mobilization and Reconversion adopted a resolution "respectfully" requesting Byrnes to take them into his confidence and give them an opportunity to fulfill their advisory functions.[14] The labor members joined heartily in approving the resolution. Four days later, as if to take their minds off mischief, the President gave the Advisory Board a special assignment, to study the potentialities of a guaranteed annual wage, as the WLB had recommended five months before. But three months more were to pass before a director of the study was even appointed.

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[13] Vinson's parting directive on fringe issues came in an Order of the Economic Stabilization Director, dated March 8, 1945. It was amended by Davis on April 26, 1945.

[14] *New York Times,* March 16, 1945.

V-E Day was drawing close, and Byrnes had indicated many months before that he intended to leave with victory in Europe. Again he asked to be relieved of his duties. The President accepted the resignation with regret and appointed Vinson, who had not yet gotten settled in the offices of the RFC, to replace Byrnes. Eight days later, Roosevelt lay dead in Warm Springs.

In the closing years of his life and tenure as President, Roosevelt had been far removed from labor's problems. His concern with foreign affairs had excluded from his thoughts the day-to-day issues of the home front. A labor leader who had been a warm admirer of the President, returned from a visit to the White House in early 1945 and reported to his associates in a closed conference that the nation's leader, preoccupied with international problems, had lost touch with the workers. Even the commonplaces of the wage stabilization program, he said, were unknown to the President; while the WLB was enforcing a 50-cent minimum wage, Roosevelt was still urging labor to be content with the 40-cent minimum under the Wage-and-Hour Law. A group of labor leaders from New York who spent an hour with the President found him ailing, cordial, and completely unfamiliar with the difficulties besetting the unions and their memberships.

The prevailing attitude among union spokesmen was expressed publicly only by Rieve of the Textile Workers at a testimonial dinner to Senator Robert F. Wagner following the 1944 election. After praising the President's conduct of international affairs, Rieve said cautiously:

> "I hope I may be permitted to wonder whether the task of keeping the home front strong has been entrusted to equally safe and able hands. . . . Many disturbing things are happening in our nation, and most of them can be traced directly to those to whom our domestic economy has ben entrusted. Too many of these second- and third-string assistant presidents, it seems to me, have too little

faith in the democratic processes and too great confidence in the everlasting rightness of property. Are the economic royalists again in the saddle? Have the money-changers returned to the temple — or were they never really tossed out?

"I am not answering the questions: I am merely asking them. Frankly, I don't know. All I know is that I am deeply worried. I think I have reason to be sorely concerned. . . . What are they trying to do to us, these latter-day Bourbons to whom our home front has been entrusted? . . . . If this sort of thing continues, we will have won the military war on a dozen foreign fronts and lost the social and economic war on the home front."

Even before the 1944 election, labor was saying that Roosevelt was President of the United States outside of America while Byrnes was President of the United States in America. The newspapers had come to refer to Byrnes as the "assistant president." Just before his resignation Byrnes had even begun to play a part in the conduct of the nation's foreign affairs, sitting at Roosevelt's side during the Crimea conference.

Byrnes had fancied himself as Roosevelt's successor in the Presidency, if not in labor's affections. At the Democratic convention in 1944, the only real issue was the vice-presidential nomination. The War Mobilizer threw his hat into the ring, obviously with the knowledge, and probably with the consent, of the President. But he failed to win the nomination which would have made him President partly because of the CIO's opposition. *Time* magazine said that Jimmy Byrnes was rumored to be the source of the story that President Roosevelt had told the Democratic national chairman to "clear it with Sidney."[15]

Sidney had said a firm "No" on Byrnes's candidacy. The CIO's nominee was Henry Wallace whom the President had publicly spanked in 1943 for feuding with Jesse Jones over methods of conducting economic warfare. At the convention, Roosevelt brushed off Wallace's renomination for second place on the ticket with a letter clearly calculated to do his candidacy no good. Neither Wallace nor the CIO smarted under the blow. When Truman, the AFL's candidate, won out, they fell into line. But Byrnes did not forget or forgive.

Despite its dissatisfaction with events on the home front, labor plunged into the fourth-term campaign, with the CIO's Political Action Committee playing so prominent a part that it soon became the major issue. At first, the PAC seemed more likely to divide than to unite FDR's labor following. Its chairman, Sidney Hillman, got off to a loud start by declaring war on David Dubinsky, head of the AFL's International Ladies Garment Workers, whose loyalty to the President was beyond question.

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[15] *Time,* January 15, 1945.

Dubinsky was one of the leaders of the American Labor Party which held the balance of power in the key state of New York. The Communists had been conducting perennial primary fights to take over the party and had already established their control in Manhattan and Brooklyn, two of New York City's important counties. When Hillman threw the weight of his Amalgamated Clothing Workers into the left-wing scales, there was no doubt about the outcome. With a lump in their throats, Amalgamated officials who had spent their lives fighting Communist infiltration campaigned to turn the ALP over to Vito Marcantonio, Eugene Connally, Michael Quill, and the others who had fought Roosevelt in 1940. Dubinsky and his group, defeated in the primaries, withdrew and formed the Liberal Party which also campaigned for Roosevelt.[16]

The political logic behind Hillman's maneuver is still obscure. Certainly there was no need to buy Communist support by giving the ALP to the left wing; in any event the Communists would have supported the President. Administration apologists explained that Hillman had started his PAC drive without apprizing the White House of his plans. After enjoying the limelight as associate director of the OPM, the CIO leader had been retired without dignity. The PAC was his chance to emerge from the political shadows, and he used it. But it is difficult to believe that a strong word from Roosevelt would have failed to halt Hillman's war with Dubinsky.

After winning control of the ALP, Hillman turned to the national scene. He threw all his forces into blocking the development of labor parties wherever workers talked of such activity. Then he turned to the tremendous job of getting out the vote. The Republican Party was pinning its hopes on a small election day turnout. Many of the war workers, its tacticians reasoned, would be ineligible to vote because they had moved out of their old elections districts and into different states. Hillman counteracted the losses by squeezing out every possible pro-Roosevelt vote. That was the PAC's real accomplishment.

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[16] *New York Times*, March 31, 1944.

In doing so, the PAC came into conflict with the AFL. Though following its traditional policy of endorsing no presidential candidate, the Federation, through its individual leaders, delivered for the Democratic ticket. But it made sure that its attitude was on record. The editor of its weekly clip-sheet launched the AFL's campaign with the statement that the PAC was "the strongest anti-labor force in America today."[17]

Meanwhile, the PAC became the chief target of Republican propaganda. Billboards threatened that America was about to pass into the alien hands of Sidney Hillman. The Republican nominee himself fanned the flames, stirring his audiences with mere mention of the labor leader, rolling Hillman's name through resonant lips.

From G.O.P. headquarters came frequent rumors that Dewey would wind up the campaign by linking Roosevelt, through Hillman, to a series of murders committed by a thug named Louis Buchalter, better known as Lepke. During his years as district attorney of New York County, Dewey had acquired a detailed knowledge of the seamy side of New York's garment industry where Lepke had once held sway, extorting money from manufacturers and terrorizing the unions. As the whispering campaign had it, Dewey was going to show a tie-up between Lepke and Hillman. For many years, clothing workers and manufacturers had paid tribute to the racketeer and the few courageous unionists who rebelled were easily silenced by Lepke's *shtarke* or strong-arm men. Union locals came under the gangster's control for a time, but after much bloodshed, Lepke's hold on New York's clothing market was broken.

Well before the 1944 campaign was opened, Dewey was working himself into position. Lepke was in the hands of federal prison authorities when he was finally convicted of murder in the New York State courts. As governor, Dewey demanded that the federal government hand Lepke over. But the Administration was taking no chances, and Attorney General Biddle would not surrender the prisoner unless New York State promised to execute him. Dewey, a veteran crime-hunter, knew that Lepke would not talk unless he was promised a commutation of the death penalty. A tug of war followed with Lepke as the prize. In the end Dewey got his man, and as the fourth-term campaign drew into its last month, the governor waited for the prisoner to buy his life by giving information. "Will Lepke sing?" asked the headlines in New York's tabloid papers. But he didn't. The gunman walked to the death chamber without a word.

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[17] Quoted in *The First Round: The Story of the CIO Political Action Committee* by Joseph Gaer, Duell, Sloan and Pearce, New York, page 254.

The PAC's campaign went on unruffled. To Dewey's continued attacks, Hillman replied that the Republican candidate had not been averse to accepting $5,000 from the Amalgamated Clothing Workers when he was running for district attorney in New York. Anti-Roosevelt forces continued to hammer at the point that the PAC was extorting a fortune from the workers and spending it on the election. The PAC answered that it was being financed by voluntary dollar contributions from the individual workers. As a matter of fact, zealous PAC partisans were not averse to occasional pressure on dissident union members. A local of the United Electrical Workers, for example, formally brought two members to trial on charges of "conduct detrimental to the union and the labor movement" in that they publicly protested against the PAC's solicitation of funds during working hours; the union expelled them—without audible protest from civil liberties groups.[18]

But by and large, the workers wanted Roosevelt and gave their dollars gladly. By the end of the campaign, the PAC had collected $1,400,000 and spent $1,300,000. The Smith-Connally Act had failed to prevent political activity on the part of the unions. Without digging into their treasuries, they had built a sizable campaign fund.

With the election over, the CIO settled down to consider the PAC as a permanent arm. Its first big task was to prepare for the 1946 Congressional elections to give President Roosevelt Congressional backing. But the PAC had already begun to show signs of internal difficulty. In New York, the impending mayoralty election brought strained relations between ALP leader Marcantonio who favored LaGuardia for renomination and Hillman who was ready to support any candidate the Administration might favor. The change in the Communist Party line boded serious trials for the PAC. In England, the labor movement, which had chosen a course quite different from that of the AFL and the CIO—completely independent political action through a party of its own—had won an unprecedented victory by defeating Winston Churchill. But with Roosevelt dead, American labor was doubly uncertain of its political future.

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[18] *New York Times,* March 2 and 21, 1945.

Of all the tributes paid to the dead President, none was more sincere than labor's. Though he had shown little interest since 1943 in the difficulties confronting labor at home, most union leaders were convinced that postwar needs would find him once again "a little left of center." True, he had not supported the AFL and the CIO in the fight for the Kilgore Bill which would have given the workers some protection against cutback unemploment. He had not endorsed the Murray Full Employment Bill which would have made government responsible for the creation of work when private enterprise proved inadequate. But he had pledged himself during his last campaign to the achievement of 60 million jobs. He had not specified how he would do it, but labor was hopeful that its Great White Father would at least improvise a program as he had done in 1933.

In his successor, labor saw no figure comparable to the author of the New Deal. An era had drawn to a close when the 21-gun presidential salute was fired in the garden at Hyde Park and taps was sounded. Even with Roosevelt alive, labor had approached the years of reconstruction with dark foreboding. Now the cloud on the horizon had spread, and the storm was about to break.

V

NO ARMISTICE AHEAD

CHAPTER XII

60 MILLION JOBS—RECONVERSION

WHEN the feedbox is empty, says the Swedish proverb, the horses will bite each other. Even during the synthetic "national unity" of wartime, labor and business have been in conflict. Now the world faces a hard peace, with all the usual economic ills compounded by the physical and psychological havoc wrought by the marching armies. At best, the dislocations of the war have interrupted, not accelerated, any possible progress we might have been making toward the cure of unemployment and depression. Far more likely, the war has increased our economic weaknesses and aggravated our problems. That is the setting against which worker and employer will enact the future.

While the nation was at war with a powerful Axis, the domestic conflict went underground. It did not end. The war at home was subdued until the bigger war abroad was resolved. Sewell Avery was no more popular with most employers than John L. Lewis with most union leaders. But subconsciously businessmen watched the militant merchant with a nostalgic yearning for the good old days and labor leaders looked at the miner with an envy they did not dare to voice.

With the peace, however, Avery's management crusade and Lewis's labor belligerency will become more common. Different personalities will introduce their own strategic shadings but the hostilities will be more widespread and the casualties far greater.

It was once fashionable to minimize the difficulties of the peace and to forget the economic problems that descend on our factories, farms, and offices. The popular phrase was that we must fight for peace as energetically as we fought the war, but the frame of reference was usually the international scene. The focus of public attention was almost wholly on foreign affairs.

In this, President Roosevelt himself set the pattern by taking into his own hands the burden of international relations and relegating domestic matters to lesser men. In the 1944 presidential campaign, so little heed was given to the impending domestic difficulties that neither President Roosevelt nor Governor Dewey felt it necessary to present any statement of policy on reconversion. Both pledged themselves to full employment, Mr. Roosevelt specifying 60 million jobs as his goal—14 million more than before the war. Both expressed their confidence in the free enterprise system as the potential creator of a job for every person willing and able to work, but neither indicated how he intended to attain it.

Mr. Roosevelt's approach had not changed since February, 1940 when he addressed the American Youth Congress and was booed by young Communists who later that day cheered John L. Lewis to the rafters. Roosevelt told his hostile audience of the many suggestions he received in his daily mail. "Now those plans were not put into the wastepaper basket," he said. "They were all of them subjected to the closest study and scrutiny by honest liberals who have hoped that somebody, somewhere, would hit on something that would save us a lot of time and a lot of worry. But I am afraid that so far, after these twelve years, that no such plan has come forth." Twelve years after the Black October which ushered in the great depression, we had made no sure economic progress. And at the time of his death Roosevelt had come no closer to a plan for defeating depression, though he had reduced the rigors of unemployment by introducing a broader conception of relief and had helped America catch up with Europe in social security legislation.

His successor, Harry S. Truman, gave no evidence of any grasp of the solution either, though strangely he was more clearly on record, at least on paper, in recognizing the hardships involved in the return to peacetime living. In the early part of 1944, as chairman of the Senate Committee investigating the national defense program, he had signed a report which said:

> "About 17,000,000 people are engaged in manufacturing and mining operations. Any failure to provide work for even a small fraction of this number will have the most serious consequences if it

should continue for any appreciable period. . . . We are determined that the aftermath of this war shall not be a depression in which our returning soldiers and our war workers will be without employment. We know that the period between the cancellation of war contracts and the full resumption of civilian activities will be a most difficult one, but we know that the resources of the country in materials, manpower, plant facilities, and purchasing power are sufficient to create and sustain an economy of a higher and better type than that which we enjoyed before the war, if, and only if, we are equal to the tasks that confront us. A period of continued unemployment would induce people to reduce their purchases of consumer goods at the very time that they should be increased and to refrain from making investments needed for working capital. If the people should sit tight and wait until they see whether the unemployment will be continued indefinitely a period of hand-to-mouth buying and retrenchment might ensue that would have far-reaching consequences even worse than the spiraling effect of inflation." [1]

As Roosevelt's running mate, Truman had described the need for planning. "With the best will in the world," he wrote in the *CIO News*, "individual industries and individual men and women cannot achieve this goal working outside the framework of a national plan. We have found this to be true during our period of all-out war production. It will be just as true during the postwar period now coming so close to us." [2]

American labor has taken the promise of full employment seriously, though by no means convinced of its fulfillment. Two years before President Roosevelt and Governor Dewey both endorsed the concept of jobs for all, the most influential figures in American industry had already discarded the notion. For example, the Committee for Economic Development, a group of American businessmen who had banded together in 1942 for the purpose of preventing postwar collapse, set their goal more modestly at *high levels* and even *satisfactory levels* of employment. This type of thinking was not limited to American business circles. In England, too, the government's White Paper on employment encountered laborite criticism in parliamentary debate because it "did not aim at full employment but only at a high level of employment, a vague term which could be interpreted in different ways."

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[1] Special Committee Investigating the National Defense Program, Third Annual Report, page 9.

[2] Quoted in the *New York Times*, October 7, 1944.

American labor leaders are apparently less sophisticated than their British cousins. When they sat down with representatives of the United States Chamber of Commerce to sign a "New Charter for Labor and Management," they did not insist on an explicit endorsement of full employment.[3] Businessmen, even of the Eric Johnston-Chamber of Commerce school, are not convinced that full employment, as labor defines it, is desirable. In 1944, the Chamber published a series of pamphlets prepared by its research director in which these conclusions appeared: "Instead of 'full employment' our objective should be the avoidance of mass unemployment. . . . If our society is to be free *and* dynamic, unemployment cannot be abolished entirely, even for short periods. . . . Some unemployment in a progressive society is the price which we must pay for desirable change. . . . It is *not* the objective of business or businessmen to provide jobs. Businesses are established for the purpose of enabling their owners to make a living or secure a return on their investment, just as a worker seeks a job in a steel mill not to produce steel but to gain a wage. . . . Jobs are thus a by-product of business and not an end-product." The author argued, too, against labor's contention that if private industry does not provide jobs, government must do so. "This may be true politically but it is a negative philosophy and policy. It is defeatist in nature."[4]

The Chamber of Commerce was careful to indicate that the pamphlets did not necessarily represent its views, yet having put the literature in circulation, it could hardly expect a favorable reaction from labor. But if the unions were aware of this approach, that knowledge did not stand in the way of the labor-management charter.

At the same time that amity in industrial relations was being welded on paper, the unions were already beginning to feel the first impact of what peace would mean. It came, with appropriate drama, in the much-publicized Willow Run bomber plant, a colorful product of America's wartime productive genius. Just as the plant and its workers were about to receive the Army-Navy E for excellence, the Ford Company announced the beginning of shutdown. Referring to the pending ceremonies, Brendan Sexton, president of Bomber Local 50 of the United Auto Workers, said:

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[3] *New York Times,* March 29, 1945.

[4] *Full Employment: Its Politics and Economics* by Emerson P. Schmidt, Postwar Readjustments Bulletin No. 9, Chamber of Commerce of the United States of America, Washington, D.C., 1943, pages 7, 9, 17.

> "It will be a fine affair, with flags flying and orators orating, but unfortunately a great many bomber workers won't be there to see it; and those who do show up will have the doubtful satisfaction of celebrating their economic funeral. Not that we want to keep on making bombers when they are no longer needed. But we do think there ought to be a more appropriate reward than lay-off slips. If we can't make bombers, why can't we make bathtubs, or any one of the other many items which have become scarce since war production started?
>
> "There are 10,547 former bomber plant workers now in the armed services. The law says that when they are mustered out, they must get their jobs back. The only trouble with the law is it doesn't say where or when. At the rate industry and the government are now moving, the bomber plant, costly as it is, will be a fine net of cobwebs – a postwar monument to inefficient planning and broken promises."[5]

From the situation confronting that local union president, one can draw the general pattern of the next few years. The plant had cost the government almost 100 million dollars; another 25 million had gone into a government housing project for the workers; 20 million more had been spent on a highway to the plant. Shutdown would mean a loss of that tremendous investment, the creation of a ghost community, and the ultimate disemployment of 20,000 workers, plus another 100,000 in plants supplying Willow Run.

Just a few weeks before, on April 1, 1945, War Mobilizer Byrnes in his last report to Congress on reconversion plans had calmly assumed that there would be unemployment after victory in Europe. It was even implied in some government quarters that a few million unemployed would be a good thing since the resulting fear would keep war workers at their jobs until the end of the Japanese war. Judging by newspaper and radio comment, the country, still talking of 60 million jobs, showed no reaction. But labor was reacting. Government officials, industrial experts, and journalists investigating the current wildcat strikes were all convinced that the labor unrest was due in great part to the dread of coming unemployment. Arthur W. Hepner, writing in *Harper's Magazine,* reported that "the common denominator on which there is almost universal agreement is that some immediate and concrete form of assurance is needed that workers will be gainfully employed after the war." [6]

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[5] *PM*, April 20, 1945.

Even with the greatest degree of planning and the most effective control, and allowing for the withdrawal of women and the over-aged from industry, maintenance of wartime employment levels and the reabsorption of returning veterans was clearly an impossible task. Our economy is not static; it could no more reverse gears suddenly and get back to peacetime production than an automobile in motion can shift into reverse. Assuming the best of planning, a full employment economy could not be built overnight or even in a year or two. But V-J Day put an end to war production with comparative suddenness. If reliance is being placed on the employment potentialities of tripling our foreign trade—President Roosevelt's hope—we must realize that here again we face a process that cannot be speedy enough to compensate for the contract cutbacks.

A mere definition of what's involved in keeping the nation at work reveals mountain-high barriers. Nevertheless, the subject was approached with the sloganeer's glibness. The management-labor charter, for example, begins with the words: "We in management and labor firmly believe that the end of this war will bring the unfolding of a new era based upon a vastly expanding economy and unlimited opportunities for every American." It is devoutly to be wished for, but wishing will not make it so. Especially when—

A mere return to the production levels of 1940 would mean some 20 million unemployed. The sociologist, Gunnar Myrdal, on the basis of data compiled by S. Morris Livingston of the Department of Commerce, points out that "if the real volume of production in 1946 merely equals that of 1940, which was not a bad year in comparison with the thirties, unemployment would amount to the 9 millions who were unemployed in 1940, plus the 2.5 millions added to the civilian labor force, plus the 8 millions who would be displaced by the increase of productivity per working hour: altogether nearly 20 millions unemployed." He adds that even if the workweek in industry should be reduced to only 33 hours as a means of spreading the work, unemployment would considerably exceed 13 millions as a result of going back to the 1940 national income.[7] The National Planning Association reports that we will have enough peacetime jobs only if output is increased 40 percent over 1941, a year of war production.

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[6] *Harper's Magazine,* April, 1945, page 456.

It is difficult to believe that the tragedy of depression can be as deep as such studies indicate. The probability is that there will be some amelioration. Whatever administration sits in Washington, government will have to respond long before we reach the extreme of 20 million jobless. However unwelcome the measures, industry itself will again accept federal intervention as once it hailed the National Industrial Recovery Act.

But little advance planning has been achieved. In November, 1944 President Roosevelt asked Congress to appropriate 76 million dollars to blueprint plans for the construction of schools, hospitals, and other public works; Congress appropriated five million. That was one of the first blows labor suffered, and it landed in the solar plexus of employment. Furthermore, government plans for reconversion released by Bernard M. Baruch and John M. Hancock, and later by the Director of the Office of War Mobilization and Reconversion, have not been proposals for peacetime reorganization but programs for relaxing and eventually eliminating the war controls over business. None of the planners in the war agencies was ever concerned with the fundamental relationships of a restabilized economy. The only agency that approached this problem, the National Resources Planning Board, was eliminated by act of Congress. The nation moved into the future without a guide.

The unions, insofar as they have a program, have taken the position that industry must be encouraged to provide as many jobs as it can and that government must then fill the gap. That has not interfered with the labor movement's endorsement of the free enterprise system. In the management-labor charter, Green and Murray joined in the declaration that "the rights of private property and free choice of action, under a system of private competitive capitalism, must continue to be the foundation of our nation's peaceful and prosperous expanding economy. Free competition and free men are the strength of our free society." From that it followed that "the inherent right and responsibility of management to direct the operations of an enterprise shall be recognized and preserved. So that enterprise may develop and expand and earn a reasonable profit, management must be free as well from unnecessary governmental interference or burdensome restrictions." John L. Lewis, outside the CIO and the AFL and sneering at the pact, was also telling reporters that he believed in the free enterprise system.

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[7] Speech before the Swedish Economic Society, *Economic Developments and Prospects in America* by Gunnar Myrdal, National Planning Association, Washington, D.C., 1944.

At the same time labor was also pushing the Murray Full Employment Bill which would put government in the business of providing jobs. The Bill itself was an outgrowth of the new concepts that the controlled war economy had engendered in the public mind. In fact it originated in the War Contracts Subcommittee of the Senate Committee on Military Affairs and was submitted by Senator James E. Murray, Senator Chapman Revercomb, and the then Vice-President Elect Harry S. Truman.

The Bill proposed that the President submit annually to Congress a national production and employment budget, listing the total number of jobs needed for "full employment," the amount of investment needed to provide that number of jobs, and the prospective amount of investment for the ensuing period. To make up whatever deficiency then appeared, the federal goverment would undertake a program of encouraging increased private expenditure and then a program of government investment and expenditure. The encouragement of private enterprise would take the form of new policies on banking and currency, taxation, social security, etc. Government investment would be limited to public works, public services, conservation, and similar noncompetitive activities. It was even stipulated that government-financed construction was to be done only through private concerns.

Except for an occasional lone wolf like Beardsley Ruml, industry would have none of it. "Only authoritarian governments have so far undertaken to guarantee jobs for all, in the way that this bill proposes," said the *Journal of Commerce*. "Nothing in our experience justifies the belief that such a program can be carried out without involving the government in a program of progressive socialization of enterprise." *The Wall Street Journal* was equally quick to condemn the program, referring to Professor Friedrich A. Hayek's book, *The Road to Serfdom*, as being the most effective answer to the Bill.[8]

Senator Murray hurried to its defense. He began by emphasizing that his committee had submitted the Bill "without commitment" and then proceeded to endorse Hayek's "splendid work." He noted that "Professor Hayek points out that it is not incompatible with the free enterprise system to plan deliberately a framework within which that system can best operate." [9] In reality, the Full Employment Bill was such an attempt. Its intent was clearly to find a solution to the employment problem that would leave the institutions of private property untouched and would not border on socialism.

Its Congressional sponsors were careful to emphasize that the Bill itself provided for no program of action. The President was to make certain economic surveys and then recommend to Congress how anticipated difficulties could be met by government spending. In the sense that it suggested government responsibility for the creation of employment opportunities, it was a distinct departure from the traditions of private enterprise, but its provisions were carefully hedged with guarantees that government would not compete with business.

Such being the aim, labor did not hesitate to go all-out for the Bill. Unlike most European labor movements, the American unions have not accepted any of the major tenets of socialism. The influence of the Socialist Party on American workers reached its lowest point during the Roosevelt era, in great part because of the New Deal and the sense of power which labor derived from its easy access to the White House.

Even the most cursory comparison of American trade union thinking with that of European trade unionists reveals a great ideological gulf. The British and continental unions were affiliated for decades with the International Federation of Trade Unions which maintained close contact with the outspokenly political Labor and Socialist International. Since the liberation of the continent, the reappearing unions have evidenced an even more socialist character than before the war, though their ultimate destiny will be determined by whether or not the Communists are successful in gaining control. In any event, after the contact with a fascist planned economy, European labor is hardly likely to be frightened by the thought of public ownership and control under democratically elected governments responsive to the popular will.

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[8] *Journal of Commerce*, December 21, 1944; *Wall Street Journal*, December 19, 1944.

[9] *Wall Street Journal*, December 28, 1944.

Indeed, the reluctance of many of the prewar socialist parties in Europe to press forward to socialist goals has been ended by the experience with Hitler. For one thing, their problem of how the private owners of industry were to be stripped of possession —whether by confiscation or compensation—has been rendered largely academic. The expropriations effected by the Nazi *Gauleiters,* the forced sales and shady financial deals, have so beclouded titles that the only possible solution is government assumption of possession. Furthermore, in the liberated countries the most convenient form of punishment for collaborationist industry is state seizure of property.

In the United States, where these factors can play little part, some confused currents of socialization are beginning to be felt despite labor's adherence to free enterprise. The visible rewards of national planning—the phenomenal increases in productivity, the wartime full employment, the maintenance of comparative price stability—have left their imprint. Of course there has been irritation with government restraint, but the fundamental effectiveness of centralized planning has not been overlooked by labor. That factor has led it to ask for continuing government action while at the same time endorsing free enterprise. To labor, the Murray Bill is compatible with both.

But labor is unable to choose between the two courses. The labor press carries frequent articles about the extraordinary increase in government industrial holdings which it does not really want returned to private hands. That was one of the reasons for its opposition to the Baruch-Hancock Report which recommended that government-owned facilities should continue to be operated only if taken over by private industry. With one eye on the employment index, labor economists are watching the fate of the 15 billion dollars' worth of government plant and equipment, 70 percent of which is said to be convertible to peacetime use.[10] They are afraid that businessmen may acquire the government's up-to-date plants only for the purpose of closing down their old ones, thus reducing employment opportunities. In reality, though still paying lip service to free enterprise, labor is vaguely looking for "little TVA's," public corporations, and mixed corporations in which both government and business will participate.

But its enthusiasm for such measures is tempered by its awareness that government participation in business means more government restraints on unions. "If we let Uncle Sam do it," says Robert Watt of the AFL, "he will not be our uncle much longer, or even our cousin. He will then be known as Comrade Sammy or Fuehrer Sam."[11] The fear is not without reason. Before the war, in a strike of WPA workers, a stoppage with little effect on the public welfare, President Roosevelt told the participants that they had no right to strike against their government. That principle alarms the unions and makes them reluctant to see government in the role of employer. Simultaneously, the unions fear the unemployment that will result if private employers are left free to make their own decisions.

In the Murray Full Employment Bill the unions thought they had found a way out of the dilemma. Full employment was to be underwritten by the government but private industry was to remain the employer. The Bill permitted the policeman to stand guard at the window but he was to stay out of the house until needed. With this, labor considered that it had resolved its own intellectual deadlock between free enterprise and strong government action. It could go on resisting "government's invasion of the union prerogative" as keenly as management fights the tide of "bureaucratic control."

Furthermore, by championing a Full Employment Bill labor was relieved of the necessity for advancing counterproposals on the day-by-day, specific steps the government was already taking for a return of the economy to private hands. While fighting for an over-all law, the unions could consider that they were discharging their social obligation. Much speech-making about the Kilgore Bill, for example, had made it unnecessary for the unions to do more than express an opinion on the Surplus Property Act, the Reconversion Act of 1944, and the regulations issued under those laws. The unions took note of President Roosevelt's expression of fear, in reluctantly signing the Surplus Property Act, "that the confused methods of disposition and the elaborate restrictions imposed by the bill will in many instances delay rather than expedite reconversion and reemployment." But when Roosevelt designated William Clayton to handle the disposal of government supplies, there was little objection from the unions which normally could have been expected to protest against a conservative appointment.

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[10] Special Committee Investigating the National Defense Program, Third Annual Report, Report No. 10, Part 16, page 36.

[11] *The Controller,* February, 1945, page 78.

On the other hand, when the Senate was debating Henry Wallace's nomination as Secretary of Commerce, the CIO unions plunged into the fray. They were unhappy that he lost control of the Reconstruction Finance Corporation, but when Fred Vinson got the RFC job, they merely sighed with relief that he was no longer Economic Stabilizer, forgetting the emphasis they themselves had placed on the social use to which RFC funds could be put. A month later, when a conservative banker of the Jesse Jones school took over, labor was no longer interested.

The unions do not take their own political demands too seriously because they consider such activities propaganda, not action. Even the Murray Bill, which is the keystone of labor's economic program, is urged in an atmosphere that would be incomprehensible to European labor movements. The Bill is something to campaign for, something around which "the membership can be rallied." Again and again, the unions come forward in favor of political and economic proposals because they are good talking points, not because they represent a program of social action. So Bretton Woods is an instrument for "activizing the membership," Dumbarton Oaks is something to keep the members busy. Separate and apart from the merits of these proposals, the unions see in them a means of sustaining the enthusiasm of the rank-and-file, not an economic or political program close to their heart. The result is that the labor movement is far less effective as a political force in the national life than its enemies are inclined to believe. Its program-makers have little enduring effect because they shift their legislative emphasis like political faddists.

But this, considered in the light of the past, is a sign of growth. It is evidence that the unions are beginning to understand that they must take part in the drafting and enactment of basic national legislation. It is the first real awareness that a group of 15 million citizens, sharing common hopes and interests, must express their aspirations through all the media of democracy. For decades, the labor movement—the AFL, which included the founding fathers of the CIO—showed no interest in legislative progress beyond the attempt to nullify anti-union laws or to gain a limited advantage in a particular industry. That was due in great part to Samuel Gompers' successful campaign against the socialists.

Observers uniformly comment on the contrast between American labor and its brother organizations abroad. For example, Fainsod and Gordon in their *Government and the American Economy* write: "Although the volume of such [labor] legislation upon the state and federal statute books is now enormous, the United States has in this respect lagged behind the industrial nations of Europe and the British dominions. The movement has received only lukewarm support from organized labor, which has preferred to improve its bargaining position through independent collective action rather than legislation." Unemployment insurance, social security, the National Labor Relations Act, the Fair Labor Standards Act, were not the result of long-continued union agitation. It was not until 1933 that the AFL could be prevailed upon to endorse legislation policing the working hours of male workers. As late as 1933, AFL conventions were voting down resolutions calling for a federal program of unemployment insurance. Of the Wagner Act, its author has written: "In 1935, some important friends of labor did not seek this type of federal regulation."[12] Present labor legislation is the result of Socialist and liberal, not union, agitation.

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[12] Senator Robert F. Wagner's preface to *The National Labor Policy and How It Works* by Joseph Rosenfarb, Harper & Brothers, New York, 1940, page xxix.

The great depression, however, showed the value of legislation. Among the brighter pupils to learn the lesson was John L. Lewis who in 1937, as head of the CIO, wrote:

> "Time was, before the depression, when the representative labor leader would have said: 'Guarantee labor the right to organize and we shall do the rest.' Now he knows that modern, mass-production industry — not only natural resources industries, but the manufacturing and mechanical industries as well — are unco-ordinated, uncorrelated, and overcapacitated. With the guarantee of 'the right to organize' such industries may be unionized, but, on the other hand, better living standards, shorter working hours, and improved employment conditions for their members cannot be hoped for unless legislative or other provision be made for economic planning and for price, production, and profit controls."[13]

The CIO is reiterating that philosophy in one form or another, and so is the more conservative AFL. But neither has succeeded yet in organizing its legislative thinking with a view to writing out more than a patchwork program. Both participate in political campaigns for the purpose of electing sympathetic candidates, but if their conscious objective were a definite legislative program, they would at the very least require the office-seekers to endorse specific measures. The CIO's Political Action Committee, for instance, did not confront its candidates with a list of CIO-approved bills and demand a pledge of support as the price for political endorsement. Though the CIO and the AFL were both enthusiasts for the Kilgore Unemployment Bill which was defeated in Congress only a few months before the 1944 election, neither made an effort to compel Congressional candidates to promise enactment.

Because of this habit of considering legislative proposals a means to a propaganda or morale end, the unions are not apt to inquire too closely into their merits. If a bill is merely something to demand, not something which may actually be put into practice, there is no need to be certain of its workability. Labor's speeches and articles on Bretton Woods, for example, usually took the form of exhortations about the good intended and were rarely illuminating discussions of how the particular measure would achieve the purpose.

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[13] Quoted in *Government and the American Economy* by Merle Fainsod and Lincoln Gordon, W. W. Norton & Company, Inc., New York, 1941, pages 38–9.

In the case of the Murray Full Employment Bill, there was little labor analysis of the mechanics of the proposal. Instead, union leaders' speeches and editorials in labor papers limited themselves to generalizations about the importance of full employment. From few labor sources, and those on the very fringes of the movement, came any sort of attempt to examine the Bill critically. Professor William Withers, vice-chairman of the Liberal Party which is the political voice of New York State's progressive AFL unions led by Dubinsky's dressmakers, astounded members of his own group by saying, with reference to the Murray bill: "Liberals unfortunately are taken in by the desire to compromise and make minor gains. They assume that half a horse is better than no horse at all. The trouble with this kind of reasoning is that half a horse is likely to be a dead horse. I am sure that we do not really want to make a dead horse out of the full employment issue, but the Murray bill unamended would do just that." [14]

As a trained economist, he then compared the legislation with Sir William Beveridge's "more radical" report in England, expressing dissatisfaction with the latter, too, on the ground that "nothing short of comprehensive economic planning can guarantee full employment." The Murray Bill, he said, did not even attempt to define full employment, and noted that Beveridge specifically uses the term to mean a condition where not more than three percent of the working force are unemployed and the remaining 97 percent receive fair wages for work they are suited to do. "Moreover, as Beveridge states, we cannot avoid the issue of economic control." And that issue, said Withers, is not faced in the Full Employment Bill at all.

Whatever the answers to Withers' criticism, the important fact was that labor was not even asking the questions, even though its immediate fate is written in the employment index of the nation. Labor had not undertaken to examine the values.

The union leaders had cause to believe that the Murray Bill, widely supported by public figures, would survive Congressional scrutiny. But if it were enacted untouched, the more realistic among them conceded, it would take at least five years to attain the full employment goal, whether it be 60 million jobs or less. In the meantime, they were afraid that labor could be taken for a ride.

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[14] *New Leader,* April 14, 1945.

They had no fears as to collective bargaining itself. After ten years of the Wagner Act, the policy could not be erased from the law of the land, but their experience had taught them that employers can conform to the letter of the law and still refuse to sign a contract. The Wagner Act merely requires the employer to bargain; it does not compel him to come to an agreement with the union. One need not minimize the significance of the Wagner Act to appreciate that in a pinch the unions win their demands on the basis of power, through strikes and threats of strikes. If the unions lack the resources to sustain a picket line, the Wagner Act cannot write a contract.

The lifting of the wartime lid brings labor face to face with crisis. The pressure of declining profits and highly competitive markets now force employers to review their labor costs much more critically than they did when government was ready to foot the bill. The pressure of wage deflation and the increasing unemployment of their members will make the unions more demanding in collective bargaining negotiations. But even before the full burden of these stresses is felt, industrial stability will be assailed by the frictions of transition from war to peace. Presupposing that America now starts on the road to a full-employment economy, much will happen before we are well on the way. In fact, the conflicts of the transition period may themselves impose additional difficulties.

The initial problem will be created by the hardships of resettling the industrial population. It is commonly agreed that the reconversion requires the shifting of 20 million persons from war- to peacetime activity. Union memberships will be in for a substantial jumbling as they are tossed about in the economic cocktail shaker. The difficulties will be even greater than they were in the migration toward war industries, when production was expanding under the stimulation of military expenditure in a controlled economy, jobs were begging for workers, and more lucrative war work was available. Now the movement will be toward lower-paying jobs; the search will be for any kind of work. Areas that boomed under the impulses of war activity are now contracting. The cutbacks will disrupt the economy of regions like the West Coast with its aircraft and shipbuilding centers. Localities in the South, in the Midwest, in the New England, will feel the blow. The westward trek of the early 1940's will be reversed as workers turn elsewhere for jobs. And pockets of unemployment will appear even if the national economy as a whole fares well.

The most immediate consequence will be jurisdictional disputes between the unions themselves. In such areas and industries, the unions will either be wiped out or will sustain themselves only by claiming new jurisdictions. The will to survive being what it is, there can be little doubt of the choice they will make. The history of strife between the AFL and the CIO, the internecine struggles within the two federations, cannot come to an abrupt end, nor will there be a sudden light dawning in the minds of labor leaders that it is useless and dangerous to assail each other.

New products and new production techniques will mean a reshuffling of workers, and their old union loyalties will clash with their new status. The technological changes which the war begot but left to accumulate in the laboratories will bring radical shifts in the areas of economic interest so that the workers will have to seek new alignments. Although the AFL was originally organized chiefly on craft lines, mechanical innovations have already so confused union jurisdictions that a pure example of craft unionism is almost impossible to find. Even now, union boundaries are a crazy quilt of trades and functions, determined by accidental factors like the presence of a particular union at a particular moment in labor history, the personal appeal of individual union leaders, the relative strength and financial power of one union as compared with another.

A variety of social forces will be at work, tearing apart the memberships of the unions and sending organizers scurrying for recruits in each other's bailiwicks. The reduction of the working force under the impact of remigration, the contraction of job opportunities, and the introduction of labor-saving devices will lead to the same result.

New products will change the character of war industries. If a shipyard converts to the production of prefabricated houses, the Industrial Union of Marine and Shipyard Workers, CIO, will clash with the AFL's Building Trades, and possibly with John L. Lewis's construction workers. During the conversion to war, that kind of conflict was avoided only because of the pressure of public opinion and the general desire to let well enough alone. Whatever union happened to be on the scene retained control even though the war product was traditionally within the jurisdiction of another union. But that tacit agreement can hardly be expected to last where the shift in product is intended to be permanent.

Furthermore, new production methods in established industries will transform skilled workers into unskilled workers, mere tenders of simple machines. Whole crafts will disappear. The war has taught industry how to break down highly specialized jobs into a dozen different processes, none of which requires background or training. In some cases, altogether new job classifications will emerge. In all these instances, unions are going to be at swords' point in the effort to corral members.

Another explosive potential is the inevitable series of plant mergers that will take place. Where different unions have been the bargaining representative in each of the plants, a fight for supremacy is bound to result.

In many cases workers will be reassigned to new functions as government orders are cleared from the shop. Where a plant has been a hive of craft unions, jurisdictional questions will be the order of the day. In addition, employers will be besieged by grievance claims as workers argue that they have been discriminatorily transferred. Discontent will be rife.

And in this setting, the veteran will come back.

CHAPTER XIII

COME HOME TO CONFLICT—THE VETERANS

When Lewis led his miners on strike in defiance of the War Labor Board, the Army newspaper, *Stars and Stripes,* exclaimed: "Speaking for the American soldier, John Lewis, damn your coal-black soul!"[1] The editorial was carried into every corner of the country by radio and newspaper. But when Sewell Avery staged his one-man revolt, no similar statements were broadcast from the men in the armed forces.

Few labor leaders deceived themselves about the hostile wind blowing home from across the seas, though for publication they minimized its violence. After an expedition to the war fronts in Europe, an AFL and CIO delegation told reporters they were heartened by the friendliness of the GI's. Frank Fenton, of the AFL, said the soldiers were beginning to understand that "this strike talk is purely propaganda." R. J. Thomas, speaking for the CIO, said, "Ninety percent of them are in favor of unions." But a few months later, a former international representative of his own union, who had been twice wounded in action, wrote Thomas that anti-union sentiment among servicemen was "terrific." Privately, union officials were spending long hours discussing methods of regaining the good will of the men in uniform.

Generally, union leaders who had played the game according to the WLB rules blamed the Office of War Information for failing to bring the facts to the armed forces. The channels of information to the troops overseas, they charged, were controlled by employers deliberately spreading antilabor bias. Many business spokesmen did level charges at the unions, frequently by purporting to speak for the enlisted men. For example, the *Journal of Commerce* printed an article by the president of the National Association of Wool Manufacturers which said blandly: "There is a growing antagonism to the unions among servicemen based on the indifference of labor to the needs of war production and the placing of the immediate interests of labor above the interests of the country."[2] If labor had been indifferent, the United States could never have shattered all production records.

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[1] Quoted in *Men and Coal* by McAlister Coleman, supra, pages 267–8.

On the other hand, labor suffered no lack of testimonials. Repeatedly, government officials, from the President down, and industry representatives like Eric Johnston hailed the unions' contribution to war production. After the first shock of Japan's surprise attack, American forces did not lack equipment.

What labor could not overcome was the unavoidable resentment which fighting men are bound to feel toward those who stayed behind. War is unjust and always imposes unequal sacrifice—as between soldier and civilian, those sent overseas and those who remain in cantonments, front-line troops and rear echelons, the wounded and the unscathed, the men who never come back and those who do. The soldier returns from the battlefield with a sense of grievance against the world and his own countrymen who did not share the dirt and blood of the fox-hole. Even the man whose service was remote from the roar of guns is angry that the threads of normal existence were broken for him while others were free to go their way. Friction between veteran and civilian is one of the hangovers of war.

Add to that initial attitude the stories of strikes and high pay, and you have deep-rooted antagonism. Strike statistics mean nothing compared to the power of the headlines. Any newspaperman can make a crime wave out of the acts committed by a small percentage of criminal population; it is even easier to find a strike wave in a working population of 50 million. For the sake of its own morale, the Army had to do something to counteract the widespread accounts of reckless labor misconduct and high living by workers. Army Orientation Officers were officially told: "Two opinions rather widely held by soldiers are responsible for considerable 'anti-civilian' feeling. They are: (1) That war production is being seriously hampered by labor disputes. (2) That war workers are living in luxury on huge wages. The serious thing about these opinions is that they are misconceptions based probably on inadequate access to factual material."[3] But such efforts were scattered and on the whole ineffective.

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[2] *Journal of Commerce*, April 16, 1945.

If soldiers did not appreciate labor's achievement on the production line, some government officials could properly be charged with responsibility. Whenever a war agency proposed a measure that met with public or labor disapproval, its spokesmen inevitably asked: "What will the soldiers say? Unless you adopt our policy, the boys will think you're not behind them." Constant reiteration of the theme was bound to convince servicemen that the folks back home were falling down on the job.

The outstanding illustration was the fight for a national service act. Secretary of War Stimson in a special broadcast warned that the men in the armed forces would feel that they were being discriminated against if the bill were not passed. "There is danger that under the influence of that feeling," he said, "they will not give even fair recognition to the tremendous production effort which has actually been accomplished by the great majority of American management and labor."[4] Secretary of the Navy Forrestal brought Rear Admiral Thomas L. Gatch from the deck of the battleship *South Dakota,* just home from Pacific engagements, to tell a Congressional committee: "I fear the resentment of fighting men against the men at home who are getting ten times the salary they are and are not backing them up."[5] A similar emphasis came from Gen. Joseph Stilwell who said that "the grown up and developed" soldier will wonder how come "so and so could stay home and make money while he was being shelled and bombed."[6]

President Roosevelt himself, in his message to Congress on January 6, 1945, had based a plea for national service on the ground that it was necessary for the morale of the fighting men. When Congress decided that the manpower shortage was not acute enough to warrant a labor draft, the servicemen were sure to feel let down by the civilians.

Many of the soldiers discharged in the first releases of men before V-E Day came home expecting to find juicy defense jobs and accumulate some of the money swilling around in fat pay envelopes. Their disillusionment was keen when they discovered that they had been the victims of exaggerations. They found that living costs were high and that the War Labor Board had done a successful job of keeping pay rates down. It had been fashionable to talk about the boys getting only $50 a month, but economists and government statisticians had known all along that Army pay for men in the lowest grades, plus food, clothing, shelter, medical care, family allowances, and tax exemptions, was equal to $2,800 a year in terms of civilian earnings.[7] The average worker got less than that.

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[3] Army "Fact Sheet No. 29" (unpublished).

[4] *New York Times,* January 26, 1944.

[5] *New York Times,* May 19, 1944.

[6] *New York Times,* March 5, 1945.

But here again statistics could have little effect when thrown into scales so heavily weighted by general impressions and subconscious resentments. In the first years of the war, the opponents of the Wage and Hour Law had demanded the elimination of overtime on the ground that the soldiers on Bataan and Guadalcanal weren't getting premium pay after 40 hours. Propagandists, speaking in the name of the fighting men, reported that the boys in the fox-holes were apparently sore because their fathers, brothers, and wives were getting time and a half for overtime.

Labor leaders tried vainly to convince the servicemen by long distance that union organization was fighting to maintain the wage scales on the jobs to which they would return. The 19,000 Montgomery Ward employees who had gone off to war, for example, had a stake in the higher wage scales that the union, backed up by the WLB, was trying to impose on Avery. But even government officials who wanted to protect the social advances of the preceding years were unable to bring home the point. In the very case which established the Little Steel Formula, the War Labor Board had said: "It is only fair to the workers who are drawn into the fighting services that their standards should be protected while they are away." But that was a whisper in the wind. The soldier could find little significance in the Department of Labor's releases that during the first two years of war the number of workers killed or injured at their machines in industrial accidents was greater than the number killed or wounded in action.[8]

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[7] *Executive's Labor Letter*, March 6, 1945.

[8] Office of War Information, Release No. NR–1977, dated January 20, 1944.

As the war in Europe drew to a close, the soldiers were beginning to think of the homecoming. The GI Bill of Rights was already law. Governor Dewey had publicly charged the Administration with deliberately planning to keep the servicemen in uniform in order to minimize unemployment. Even after discharge, would there be jobs awaiting them?

Back home, a new movement had become active. Under the slogan, "the right to work," business was campaigning for bills that would outlaw the closed shop. State legislatures were being asked to forbid union security on the ground that veterans would otherwise be denied the opportunity to work. Though the unions, AFL and CIO, asserted that the doors would be wide open to GI's, the servicemen could not shake off the sense of insecurity.

So far, we have had only one real opportunity to know what the armed forces are thinking. It came in the election of 1944. There was danger that the nation might be divided into two camps if the ballots cast by servicemen had varied from the result of the civilian vote. That did not happen—except in one case. California's voters had before them a constitutional amendment outlawing the closed shop. The folks at home voted it down; the servicemen were for it two to one. Though the final result was not reversed by the soldier vote, there was clear evidence that on a pure labor issue the men in uniform were not of like mind with their families at home.

The California vote is the first concrete sign of the attitude labor will encounter when the men come back. That vote was due either to an antagonism to unionism per se or to a feeling that the closed shop stands in the way of the veterans' re-employment. At the very least, the serviceman wonders whether there will be enough jobs to go round. If there aren't, the soldier's only hope is to dispossess a present job tenant, either the worker who replaced him when he was drafted or the old jobholder. That is an ugly prospect.

Theoretically, the GI's have a legal claim to their old jobs under the Selective Service Act. The natural instincts of gratitude have led the nation to pledge the veteran everything from jobs to college degrees, and we have been signing blank checks against the future though our account is already heavily over-drawn. The due date will be a day of frightful reckoning, for the re-employment law applies only to a small percentage of the veterans.

Col. Paul H. Griffith, as chief of the Veterans Personnel Division of Selective Service, told a conference of businessmen that only one out of every five veterans would come back with re-employment rights—at most, two and a half million. Most servicemen will not qualify.[9]

Section 8 of the Act provides that any person who left a job in order to go into service must be rehired if his job was other than temporary, if he was not dishonorably discharged, if he is still qualified to perform the duties, and if he reapplies for the the job within 90 days. But even if he meets all these requirements, he may still be barred from the job if the "employer's circumstances have so changed as to make it impossible or unreasonable to rehire."

The interpretation of these provisions brought a head-on clash between the unions and the Selective Service Administration. Labor argued that Selective Service, in its official Local Board Memorandum 190–A, had so defined the term "temporary" as to deny rehiring rights to large numbers of workers, ordinarily considered permanent. The law itself contained no definition. Most union contracts provided for probationary periods, usually a matter of weeks or a few months, after which the worker was considered permanent. If the union view were followed, a greater number of draftees would qualify for rehiring. But Selective Service had ordered that the terms in union contracts be disregarded.

There was economic justification for Selective Service's position. Under the pressure of a tight labor market, many employers had taken on men as permanent employees—at least they had failed to stipulate that the employment was temporary or had yielded to the pressure of existing union contracts. In many cases, a number of men were drafted out of the same job, and the employer could not be expected to take back all of them when demobilization came. Businessmen were necessarily opposed to any obligation of multiple employment. The most Selective Service could do was to give only one drafted job-holder a re-employment claim to the one job.

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[9] *Seniority and Reemployment of Veterans,* National Industrial Conference Board Studies in Personnel Policy, No. 65, National Industrial Conference Board, New York, 1944, page 7.

But a more confusing problem surrounded the question of seniority. Selective Service had held that a qualified veteran must be rehired even if a worker with greater seniority had to be fired. As the unions saw it, the germ of the ruling lay in a carefully planned antilabor stratagem. In January, 1944, the leading newspapers of the country carried full-page advertisements inserted by the Timken Roller Bearing Company with boldface headings: "THEY OFFER THEIR ALL! CAN WE OFFER TOO MUCH? The Timken Roller Bearing Company proposes seniority rights to every employee for double the time spent in military service."[10] The Steelworkers Union, which had poor relations with the company, was convinced that the purpose was to disrupt the seniority system, sweep union men out of the plants, and replace them with veterans who were expected to be hostile to unionism.

Seniority is a well-established institution in American industrial relations, one of the legacies of British practice. It provides, very simply, that a worker, union or nonunion, is entitled to preference on the job in direct proportion to the years of service he has put in with the company. If layoffs come, the worker with the smallest period of employment is the first to go; in rehiring after seasonal contractions, workers with the longest period of service are the first to be taken back. In most cases, seniority is also used as one of the standards for promotion: the workers with the greatest seniority, other factors being equal, gets first crack at the better job. Seniority is the nearest a worker can come to job security, and the courts have recognized it as a property right which can be protected by law suit.

The Timken plan obviously impaired that right. A worker's seniority is dependent on the standing of his fellow-workers. To change the status of one employee on the ladder of seniority may push every other worker down one rung. Obviously, the application of double seniority, in a period of declining employment, would mean systematic displacement of civilian workers by veterans. Timken was not unaware that its generous gesture to the veterans was to be paid for by its employees.

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[10] *New York Times*, January 8, 1944.

By and large industry rejected the Timken plan, recognizing that it would throw established relations into confusion. Selective Service, on the other hand, adopted the principle, magnifying its effect by multiplying double seniority into an absolute or super- seniority. It formally declared in Local Board Memorandum 190–A that "a returning veteran is entitled to reinstatement in his former position or one of like seniority, status and pay, even though such reinstatement necessitates the discharge of a non-veteran with greater seniority."

The unions insisted that Selective Service was stretching its interpretation beyond the language of the law and pointed to a contradictory statement contained in the same Memorandum: "In the administration of the Act, the Selective Service System takes the position that the seniority of a person in the service accumulates during such service *to the same extent and in the same manner as if such person had remained in continuous employment.*" If the individual merely continued to acquire seniority while in the service, how could he get greater seniority than he would have earned if he had remained on the job?

The law itself said that any person restored to a position in accordance with the provisions of the Act "shall be considered as having been on furlough or leave of absence during his period of training and service in the land or naval forces, shall be so restored without loss of seniority . . . pursuant to established rules and practices relating to employees on furlough or leave of absence in effect with the employer at the time" of induction. But Col. Griffith, author of the Memorandum, told the National Industrial Conference Board: "Congress thought a veteran ought to have more than he would have had if he had stayed at home." The law itself said otherwise. In fact, precisely because the Selective Service Act did not give the veteran greater benefits than he would have had, Congress found it necessary to enact other legislation, the GI Bill of Rights, which did.

As a matter of legal interpretation, the early decisions of the courts in veterans' re-employment cases, though not dealing directly with superseniority, did not reflect the Selective Service view. One of the earliest rulings by a federal Circuit Court of Appeals interpreting the re-employment provisions held that the purpose of the statute was to give the veterans a rehiring claim "in order that they might return to the status quo." [11]

Lawyers were pretty much agreed that the Selective Service attitude was not founded in the language of the Act.[12] The Law Committee of the Association of American Railroads advised the carriers that the law called for no such policy. It reasoned that since the statute said the veteran must be "restored" to his position, Congress could not have meant to establish him in a position with greater rights.

In one of the earliest tests of the superseniority rule, brought on by the Timken Roller Bearing Company itself, management relied on the Selective Service Memorandum as justification for disregarding the seniority provisions in its contract with the Steelworkers Union. In the normal course of events, the dispute was submitted to Arbitrator Herman A. Gray, a professor of labor law at New York University. After hearing a representative of Selective Service, Gray concluded that the draft agency had no authority to issue any binding interpretations of the Act since that was in the province of the courts and that the end sought by Selective Service was socially undesirable. If superseniority were enforced, he declared, industrial organizations would be disrupted. "The task of reconversion to a peacetime economy, difficult at best, would be hampered to a degree that might well prove dangerous. Unemployment, if it comes, will be all the more devastating since it would fall most heavily on those of our working people who bear the greatest financial burden and who, by very reason of their years and length of employment at a given task, would find readjustment most difficult." Even for the veteran, there would be no profit. The only solution, he suggested, was that "veterans should receive from the government the help needed to make the transition, but once they re-enter normal economic life they should do so as civilians on an equality with all others." [13]

The War Labor Board seemed to share that point of view. It requested its General Counsel, Jesse Freidin, who later became a public member of the Board, to prepare an opinion on the effect of Local Board Memorandum 190-A. With less certainty than Professor Gray but pointing to the same result, he wrote that "it is highly probable that this memorandum is not such an interpretation as to be obligatory upon other agencies of government."[14] Similarly, the Solicitor of the Department of Labor ruled that the Memorandum was not binding. He went even further, supporting the unions' position that Selective Service had improperly narrowed the definition of "temporary" workers to exclude many veterans who should be allowed re-employment rights.[15]

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[11] Kay v. General Cable Corp., CCA–3, 144 F. (2d) 653, decided September 12, 1944.

[12] *Yale Law Journal,* March, 1945, page 417 et seq.

[13] Award handed down March 13, 1945, reported in 16 Labor Relations Reporter, dated April 2, 1945.

Selective Service reiterated its position in the face of increasing opposition from industry, labor, and the academic world.[16] As written by Congress, the re-employment law was intended to assure the veteran that he would get his own job back; as interpreted by Selective Service, the veteran would be given someone else's job. The veteran would walk into the plant, and the worker who had been there years before would have to walk out. The result would be to put the burden of re-employing veterans on those least able to carry it, the individual workers—not government or industry. As the American Veterans of World War II expressed it, Selective Service would "rob Peter to pay Paul."[17]

Business was fearful of the effect that superseniority might have on over-all employment. The *Journal of Commerce* carried a front-page discussion under the headlines: "Superseniority for War Veterans Held Unworkable. Concern as to Soundness of Selective Service Rule Voiced by Industry." The article stated that in some industries "application of the superseniority rule will deprive employers of the service of many skilled workers, for want of whom reconversion and re-employment may be retarded."[18] What disturbed business was the possibility that in order to make room for veterans it could be forced to discharge the very men who were deferred as "irreplaceable" by Selective Service itself. The result might well be a cut in total operations. A study by a group of economists at Princeton University had reached the same conclusion: "If this notion prevails, many mature and competent employees will lose their positions by legal fiat. It is questionable whether the veteran group, as a whole, will gain as much in security as the wage earners they displace will lose."[19]

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[14] Opinion of the WLB General Counsel, dated April 27, 1945.

[15] Opinion of the Solicitor of the Department of Labor, dated May 8, 1945.

[16] *Selective Service,* official publication for local draft boards, April, 1945.

[17] Reported on October 23, 1944 in 15 Labor Relations Reporter 198.

[18] *Journal of Commerce,* September 20, 1944.

The problem had come up in a somewhat different form before the Shipbuilding Commission of the WLB. Ironically, it was a union, the CIO's Industrial Union of Marine and Shipbuilding Workers, that raised the issue by calling for wider veterans' re-employment rights by giving them "comparable" jobs where the old ones were no longer available. The union's request was denied for this reason: "The requested provision might well result in the displacement of all employees other than military veterans (assuming that by the end of the war total inductions of former employees will at least be equal to the number of positions which will thereafter be available in the yard). Moreover, many of the re-employed veterans would be employed in classifications in which they had no experience and for which they might have little aptitude, thus seriously affecting the efficiency of the working force."[20] The same factors would operate in the case of superseniority. While the veteran might be qualified for the job, his skills would be rusty and the effect on output would be heightened by the loss of men with greater seniority.

For some industries, the difficulties would be particularly acute. Before the war the West Coast aircraft industry had employed only 30,000 workers; during the war, about 100,000 men had passed through the plants into the armed forces. The industry privately estimated that veterans returning with full re-employment rights would amount to twice as many workers as held jobs in the peak prewar year of 1940. In view of the anticipated drop in production, it was possible that the workforce would consist entirely of veterans under the superseniority rule.

As a matter of practical politics, Selective Service would not have attempted to apply its own rule for fear of ruining the industry. More probably, it would have decided that "the employer's circumstances have so changed as to make it impossible or unreasonable" to rehire the servicemen. The result would then have been both the disillusionment of many veterans and the destruction of the seniority rule at the will of the employer.

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[19] *Seniority Problems During Demobilization and Reconversion* by Frederick Harbison, Princeton University, Princeton, 1944. The language quoted is from the foreword by J. Douglas Brown.

[20] Sullivan Drydock and Repair Corp., 14 War Labor Reports 283, decided February 29, 1944.

Superseniority was important primarily because it dramatized the impending fight for jobs between veterans and civilians. In reality, it gave little, if anything, to the veterans as a group. Omar V. Ketchum, National Legislative Representative and Rehabilitation Director of the Veterans of Foreign Wars summed it up by saying that superseniority "would wreck existing union seniority systems—and in the end veterans would thus be left with practically no protection at all. The best and fairest method is that provided for in union contracts—under which returning soldiers regain their former seniority, plus accumulated seniority for the time they were in uniform. That means a square deal all around."[21]

To many individual servicemen, superseniority was actually a danger since the Selective Service interpretation destroyed seniority as between veterans. If the number of jobs had shrunk in the plant and there was room for only one returning serviceman in a given job classification, the veteran who came back later, even though he had greater seniority, would be left out in the cold. Local Board Memorandum 190-A provided that "a veteran who has been reinstated to his former position cannot within one year be displaced by another, on the ground that the latter has greater seniority rights." In place of the seniority principle, Selective Service substituted accident, to the disadvantage of the men who stay on longest in military service.

When Congress renewed the Selective Service Act in 1945, it preferred to disregard War Mobilizer Byrnes's formal recommendation that the law be clarified. Two reasons may have motivated Congress: the delicacy of the question and the general feeling that the courts would take care of it.

But no matter what the outcome, labor had already suffered the damage. Throughout the controversy, Selective Service implied that the unions were trying to block the rehiring of veterans. For example, Col. Griffith, in a public meeting, referred to the CIO "which differs with this Act." [22] His assistant in the Veterans Personnel Division, Maj. Benjamin M. Golder, discussing superseniority in a meeting of business executives, said: "We are hoping that industry will stand up and fight, no matter what the cost, to see that the veteran is given decent treatment when he comes back." Fight whom? When asked if he meant labor organizations, he replied that "local labor organizations were not particularly helpful." [23]

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[21] Quoted in *Labor*, organ of the Railroad Brotherhoods, August 26, 1944.

But far from differing with the rehiring provision of the law, the unions had been among its chief proponents. The AFL and the CIO had more members in the armed forces than could possibly be protected by the Act as draft headquarters interpreted it. In almost all cases, dues payments had been suspended for draftees so that they could return in good standing. Many unions waived the usual initiation fees for nonunion veterans who might wish to join.

The records of the WLB are filled with cases brought by unions to compel employers to give greater job rights to veterans than the law required. Union negotiators insisted, for example, that the veteran be allowed more than 40 days to apply for his old job; [24] eventually Selective Service itself requested Congress to amend the law to read 90 days. In addition, union demands often included special "rehabilitation leaves" for returning soldiers to last for as much as a year.[25] Many union contracts were written to require that disabled veterans, no longer fit for their old jobs, be assigned to any available work they could do.[26] For these most deserving veterans Selective Service had no re-employment provision at all.

In a formal agreement with the Veterans of Foreign Wars, both the AFL and the CIO pledged themselves to credit veterans taking new jobs with seniority rights for all the time spent in the armed forces.[27] The result would be that a veteran who had never worked in the plant before would automatically acquire a substantial backlog of seniority once he was hired. This was no empty gift. It meant a sacrifice on the part of civilian workers since the introduction of additional men with seniority would reduce their own standing on the employer's preference list. Furthermore, as union leaders pointed out, seniority for military service granted to all veterans, newcomers or old jobholders, would not disappear at the end of a year as was the rule under Selective Service's superseniority.

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[22] *Seniority and Reemployment of War Veterans,* op. cit. supra, page 8.

[23] *Management Record,* National Industrial Conference Board, July, 1944, pages 181–2.

[24] Retail Grocers Association of San Francisco, 15 War Labor Reports 22, decided March, 1944 (precise date not given).

[25] Toledo Pipe Threading Machine Company, 14 War Labor Reports 715, decided March 7, 1944.

[26] Columbia Machinery and Engineering Corp., 19 War Labor Reports 68, decided August 22, 1944.

Most employers recognized the merit of the proposals and were eager to go along. In a few cases, however, individual groups and companies saw an opportunity to belabor the unions. Even after the CIO's Auto Workers had announced that they were going to demand automatic seniority for newly hired veterans, the Detroit automobile industry which was preparing for a knockdown, drag-out fight with the union, began to wave the veteran club. One company laid off several such veterans, insisting that it was doing so under the established seniority rules. The union protested and demanded their reinstatement under the principle laid down in the agreement with the Veterans of Foreign Wars, though it was not yet written into the new contract. But the layoff story had already made a splash in the papers, the reinstatement got no publicity, and the union got a black eye.[28] A short time later, the *New York Times* reported the official industry position on the issue as follows: "According to an analysis by the Automotive Council for War Production, much resentment will be aroused among ex-servicemen if the unions adhere to this ruling and it may have an undesirable bearing on employment readjustment." A later release labeled the AFL-CIO-VFW program as a "lockout of veterans." And before long, the VFW itself backed down by seeking to construe the agreement as giving veterans who had never worked in the plant priority over men already on the job.[29]

But to suppose that the job problem can be solved by any such measures, governmental or union, is extremely unrealistic. The whole seniority difficulty lies in an anticipation of unemployment to come. It is based on the assumption that our economy, despite its vast resources, cannot absorb both civilians and veterans. Unfortunately, if we don't have jobs for all, the serviceman will be out of luck, just the same as his civilian brother. It is impossible to build an artificial island of security for the veteran in the midst of depression. The only fundamental answer is to bring him home to an economy in which there are jobs, not to seniority rights in a job that isn't there. Failing that, there is no way to avoid the clash. In an atmosphere of unemployment, veteran will fight civilian.

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[27] Reported on July 31, 1944 in 14 Labor Relations Reporter 674.

[28] *The New Veteran,* published by the CIO, July–August, 1944.

[29] Reported on May 14, 1945 in 16 Labor Relations Reporter 352.

For the unions there is no way out of the dilemma. Even union members are likely to turn against their organizations if jobs are not to be had. During the Thirties, many a harried official faced irate membership meetings with ineffective pleas that the union administration was not responsible for the depression and that it had no power to create jobs. But the hungry members wanted action, not economic dissertations. A crisis of that kind must necessarily be intensified when doubly-embittered veterans are involved, whether they are in or out of the union, and more will be outside than in. The mere fact that a nonveteran union member is working while the veteran isn't will be enough to spark an explosion.

The resulting conflict will be even more violent because of the antagonisms the soldier already nurtures. John Chamberlain, in his foreword to McAlister Coleman's *Men and Coal*, tells of a conversation between John L. Lewis and a draftee who bearded him in Washington's Union Station.

"Mr. Lewis," said the GI, "I had a good one-hundred-and-ninety dollar-a-month job which I've had to give up to go into the army for fifty dollars a month. Do you think it's right for your miners to strike for more money when I'm giving up that much?"

"Well, son," answered Lewis, "let's talk about this. One hundred and ninety dollars is a lot of money. What did you do with it?"

"I used it to support my family. A mother, father and sisters."

"Who has your job now?"

"Well, I guess we're pretty lucky. My brother's got the job, so he's taking over in my place. But he has a lot of obligations and it's pretty hard to make ends meet."

"Should your brother get less money?"

"Certainly not. He ought to get more, because the family needs it."

"I think," concluded Lewis, "that you've answered your own question."

The story may be as apocryphal or exaggerated as the account of two soldiers entering Lewis's office and punching him in the eye. But assuming that Lewis's Socratic logic won the boy to his view, the mine leader will not be able to persuade the millions of others in khaki, navy blue, or olive drab. Certainly not, when the obstacle course this time lies between them and a limited number of jobs.

For industry, too, the reabsorption of the veterans presents gigantic difficulties. Veterans who are unemployed will be rebellious, against the employers as well as the unions. Many of those who get jobs will refuse to join the unions because of the accumulated prejudices of the wartime years, but foremen will not find them docile either. There will be much friction before the edges are smoothed off and the psychological distortions of war are removed.

There will be many, on the other hand, who will make their readjustment fairly quickly. Once they are back in overalls, they may conclude that they have the same economic interests as their fellow-workers—higher pay, better shop conditions, vacations, sick leaves, etc. Old union members will return from military service to renew their loyalty to the organization. They are not likely to complain if they find that, during the war, their union raised the level of prevailing wages. Besides, most unions have kept in close touch with their drafted members by sending them regularly the official union periodical, special literature for servicemen, cigarettes, and gifts. These members can be expected to furnish a more aggressive, even flag-waving, leadership on picket lines, in negotiating committees, and grievance hearings. They will push themselves or be pushed into the forefront as shop stewards and business agents.

The most significant fact, however, is that a great proportion of those in the armed forces never held jobs before they were inducted. These will constitute the big problem for the unions, since most of them will have little understanding of unionism. To them, unions may seem like mere dues-collecting agencies, levying tribute on the right to work. They probably heard the widely circulated tale of merchant sailors, allegedly members of the National Maritime Union, who refused to unload equipment at Guadalcanal; they may not have heard the less widely circulated repudiation of the story by high Navy officials. But even if such inventions did not come to their ears, there were accounts of strikes and stoppages that did occur, and controversies over superseniority for veterans.

They may not come back ready to do the violence predicted by an official of American Telephone and Telegraph in a message to a union representative: "Tell the workers, if they don't like what we stockholders say, that's too bad. They can have all the picket lines they want. They'll be crushed. The boys have learned to kill Germans and Japs with their bare hands and I want a front-row seat at the picket lines when the boys come back."[30] But the veteran will certainly come back with considerable fight still left in his system. The target will not be only labor, as the prematurely gleeful stockholder will find out, for the veterans will be on both sides. Many of them will be in the unions, in some cases occupying the chief offices, and will clash with the "greedy employers who piled up profits during the war." And on the other side there will be veterans fighting the unions as strikebreakers or just for the hell of it.

The London editor of *Stars and Stripes* may not have been speaking for his readers, but he was wise in linking the grousing against labor with the more basic hostility to the home front as a whole when he wrote:

> "Talking about rumor, the home front has come in for its share. We've heard about strikes letting the soldier down. About labor lousing up supply. About the boys and gals on the assembly line goofing off and gold-bricking behind the tool shed. About the night clubs booming, the wives playing, the customers bitching. About ornery no-account 4Fs holding down soft berths and drawing folding dough while we sweat it out over here.
>
> "Maybe some of us are building up a fat little grudge against

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[30] Quoted in *The New Veteran,* June, 1944.

Rosie the riveter, Bill the business man and Fred the farmer. If so, maybe we ought to check the rumors against the truth, and see whether our gripes come out of real life or Joe Goebbels' latrine.

"We think the facts are on every road from Cherbourg, Rouen and Antwerp to the front. They're in the air above. They're on the seas. They're out in the open for every fair-minded man to see. In a four-year record of toil and sweat. A record that, stripped of rumor and writing, reads like this:

	More than	
Planes	250,000	
Tanks	100,000	
Trucks	2,000,000	
Small arms ammo	40,000,000,000	rounds
Machine guns	2,000,000	
Rifles and carbines	10,000,000	
Sub-machine guns	2,000,000	
Aircraft bombs	3,500,000	tons
Artillery ammo	2,500,000	tons

"American farms — manned by a million fewer workers produced 28 percent more food in 1943 than before the war — and 45 percent more food than farmers produced in World War I.

"Ship workers are producing 22,000,000 tons of ships a year — they've trebled their output since 1942.

"Strikers didn't produce the ton of supplies per man per month reported the other day by Gen. Ross, ETO Transportation Chief. Gold-bricks didn't turn out the six million long tons of food, weapons, vehicles and ammo discharged in 2,800 cargo ships, according to his report. Night club nifties and lounge lizards didn't help to out-produce the Axis four to one. The 102,000 workers didn't die and 350,000 weren't disabled playing the horses.

"This record shows that rumors about the home front are mostly unfounded. That strikes have cost the war effort less than one-tenth of 1 percent of the total labor time available since Dec. 7, 1941.

"Next time we read about strikes in the paper, let's remember that old newspaper adage—'when man bites dog it's news.'

"Next time we snipe at the folks at home, let's think for a moment whom we mean. Our fathers and mothers, sisters and brothers, pals and gals. As American as we are. As eager to finish this war. As famished for us as we are for them.

"Next time we wind up and let fly at the home front, better duck. Otherwise we're apt to clout ourselves on the jaw." [31]

But homilies alone will not erase the animosities. The nation must be prepared for tough going while the veterans are changing the abnormal habits of thinking, feeling, and living that battle conditions imposed. If the serviceman is asked to make the transition from Army pay to unemployment dole, from combat to idleness, from hunting down the enemy to looking for a job, no established institution will escape his wrath. And even under the happiest foreseeable conditions, his return to the vexations of office or workshop will be accompanied by jarring frictions. In either event, his welcome but disturbing presence will be another pressure on the trigger of industrial relations.

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[31] *Stars and Stripes,* London Edition, December 20, 1944.

CHAPTER XIV

THE SPOILS OF PEACE—TOMORROW'S WAR

IN THE early part of 1945, the Nazi beast, still growling, lay mortally wounded in his lair. In the Far East, the United States Navy was spreading a noose of floating steel around the home islands of Japan, and superfortresses were burning and bombing out the paper cities. Franklin D. Roosevelt was only a few short weeks from the end of his labors, but the nations were stirring with the hope that life could soon start anew for millions in the Western World.

Here at home, the business journals were writing of the coming V-E Day, government officials were reporting on reconversion proposals, industrialists were studying blueprints for plant changes and peacetime production—and labor was holding its breath. War workers were asking themselves, "What next?" and union officials were guessing at the future. In Congress, the talking went on at the usual rate, while postwar legislation remained in committee. In the courts, the Montgomery Ward case and state antilabor laws were on the way to the highest bench in the land.

There was comparative quiet. Soon Lewis would open up his annual gladiatorial display with the expiration of his coal contracts. But meanwhile, except for sporadic wildcat strikes, labor was off the front pages. Then, in March, 1945, Eric Johnston, Henry Kaiser, Bill Green, and Phil Murray announced that a labor-management charter had been signed pointing toward, if not assuring, industrial peace in our time. For several days, there was widespread comment, a statement of approval from President Roosevelt, endorsements from Congressmen and Senators, several asides in the Sunday sermons.

Business and labor had agreed that "the fundamental rights of labor to organize and to engage in collective bargaining with management shall be recognized and preserved, free from legislative enactments which would interfere with or discourage these objectives. Through the acceptance of collective bargaining agreements, differences between management and labor can be disposed of between the parties through peaceful means, thereby discouraging avoidable strife through strikes and lockouts." Collective bargaining, sanctioned by law, was now blessed by industry. Instead of brute force, sweet reason was to sit with the parties at the conference table. The shouts of pickets and the crack of the police club would no longer be heard at the factory gates.

The party ended abruptly when the influential National Association of Manufacturers announced that it had not only refrained from participating in the charter but would refuse to endorse it as written. At first it limited its criticisms to the rather obvious statement that the charter offered nothing new and that it consisted of mere "generalities on which there is already wide agreement." Ira Mosher, president of the NAM, declared: "What the people of America want to know is what is going to be done about making them work. This is a job for the Congress, with labor and management furnishing all the practical help that is within their power."[1] In addition, NAM spokesmen rebuked the Chamber of Commerce for having prematurely released the text of the charter. They pointed out that the two organizations had been in the midst of discussions on a legislative program to curb union excesses. Apparently while the Chamber was signing an agreement with the unions to fortify collective bargaining "free from legislative enactments," it was studying a series of antilabor bills proposed by the NAM.

B. E. Hutchinson, an official of the Chrysler Corporation, made public the joint program of the NAM and the Chamber of Commerce: first, that strikes against the decisions of government agencies, more specifically, the War Labor Board, be outlawed; second, that unions must impose no restrictions on the introduction of technological improvements in industrial processes; third, that individual union members should be subject to legal penalties for the misconduct of the union organization; fourth, that legislative sanctions be laid on workers who strike during negotiations or as a result of jurisdictional disputes; and fifth, that workers who refuse to strike, despite a union decision, be protected against any invasion of their rights.[2]

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[1] *New York Times,* March 29, 1945.

Behind this program stood the well-organized Automotive Council for War Production, including such prominent industrialists as C. E. Wilson of General Motors. Their interest in the future of labor relations was particularly keen because they faced the largest and most aggressive union in the country, the United Auto Workers of the CIO. Less important, perhaps, but more irritating was the fact that the National Labor Relations Board had just ordered the Packard Motor Car Company to bargain with a union of its foremen. To resist the unionization of its supervisory personnel, the industry was preparing a campaign of newspaper advertising, court action, and threats to strip union foremen of authority. In the eyes of the auto manufacturers, the collective bargaining monstrosity had reached for the ultimate by attempting to unionize management itself.

Despite this background of maneuver and calculation, the charter was important—not because it solved any problems but because of its implication that without some kind of action industrial civil war was ahead. Labor was eager for peace because it could see the approaching storm; industry representatives, concerned with more than the profit showing of their own businesses, were aware that too much rocking of the boat during the hazardous days of reconversion might sink it altogether. The geopolitics of the business scene made any labor offensive for new gains unthinkable. At most, labor could try feebly to hold on to what it had been able to get during the war: increased earnings due to longer hours, premium pay, and more skilled work; union recognition as ordered by the WLB; peripheral participation in governmental and managerial decisions affecting the workers. In form, some of labor's demands might look like new ones: higher hourly rates—but these were intended to compensate for the loss of take-home; a guaranteed annual wage—but this was to make up for the possible loss of hours worked.

From the standpoint of labor's opponents, no time could be better chosen for an attack on established labor policy than the period of transition from war to peace. Labor would be in an uproar of jurisdictional disputes. Ordinarily, union organization thrives when business is expanding and the national workforce is increasing, but in the next few years industry would be contracting. Business could even afford to stage its own sitdown strike to bring the unions to heel. Profits after taxes had been high. Businesses could even afford to run at a loss, relying on refunds from the government under the tax law's carry-back provisions. Incorporated businesses would not even have to operate at a loss to get the benefits of carry-backs and carry-overs under the excess profits tax; it would be enough if the corporation's income were less than its excess profits tax credit.

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[2] *Journal of Commerce,* April 10, 1945.

Phil Murray, in his closing address, called that possibility to the attention of the CIO convention in 1944. "If a plant owned by the United States Steel Corporation, or all of the plants of that particular corporation should close down at the end of the war, nobody excepting maintenance groups being employed, the government under the carry-forward provisions of the existing tax law would be required to compensate the Steel Corporation whilst its plants are closed and whilst its workers are idle, a sufficient amount of money out of the public treasury to enable that corporation to make its peacetime dividends." Theoretically, that was certainly possible. But Murray was apparently concerned only with the fact that business was given "the right to extract" money from the public treasury, and made no reference to the powerful threat thus placed in the hands of anti-union employers who could easily outlast the resources of the unions in the event of conflict.

While business could afford, if it wanted, to sit back on its reserves, the unions faced the prospect of shrinking income. Take-home pay would begin to fall as work schedules dropped to 40 hours a week. The unions now looked to the WLB to change its function from the enforcement of pay ceilings to the creation of wage floors. The public members of the Board made it clear that they favored such a policy. In their various reports to the President they indicated that the primary task after the war would be to maintain consumer purchasing power, in fact to keep it high enough "to substantially replace all the present wartime demands of the Government."[3] That was no small sum —60 billion dollars!

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[3] *Wage Report to the President on the Wartime Relationship of Wages to the Cost of Living,* National War Labor Board, February 22, 1945, page 20.

As reconversion drew near, the unions concentrated on breaking the Little Steel Formula, not for the sake of immediate pay increases but because they wanted basic hourly rates increased to compensate for the declining overtime. They realized that once the cutbacks started, the best they could hope for was maintenance of the hourly rate. Even if a government authority remained on the scene, it was not likely to compel employers engaged in reconversion to raise the hourly rate when they could plead that reconversion in itself was an expensive process, not immediately reflected in production. Then, too, there would be the argument, valid in many cases, that increased labor costs would hamper reconversion and result in unemployment.

The country was on the eve of an economic debate which would color all issues, a debate in which labor and management would take opposing positions. For the unions, the great objective had to be the maintenance of purchasing power through high wages. For industry, high wages meant high prices, thus reducing purchasing power. To be sure, there was common agreement that price control must not be abandoned, but business expected that reconversion price policy would be generous because of the desire to encourage a quick swing into peacetime production. Nevertheless, in an economy in which business could not pass wage increases on to the consumer, it was certain to seek curbs on wages.

Labor, on the other hand, was sure that business could easily absorb the increased cost of pay raises as a result of wartime profits. But industry was taking the view, as the economic studies of the United States Chamber of Commerce showed, that "constantly rising money wages must lead to a permanent army of unemployed."[4] If the businessman was not satisfied with the price of labor, he would make every effort to do without. In a price-controlled economy, he would introduce labor-saving devices or reduce his output; in an uncontrolled economy, he would raise his prices and the consumer would reduce output by buying less. Labor could argue that high wages mean high purchasing power, which in turn means good business; business replied that low wages meant low costs, which in turn would mean more purchases and hence more jobs for workers.

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[4] *Absorbing the Total Labor Supply,* by Emerson P. Schmidt, Postwar Readjustments Bulletin No. 5, Chamber of Commerce of the United States of America, Washington, D.C., 1943, pages 27–8.

The debate will not be settled by the economist. More probably the outcome will be left to history. In the interim, the battle will be violent.

Labor's demand for higher hourly rates to keep the total take-home from falling will be the first salient on which the struggle will be waged. The unions are not likely to enjoy success. Industry will not consent and government will not order a policy of lifting wage rates so that the pay for a 40-hour workweek can equal what the workers got for the longer wartime workweek. Labor would probably be content if it succeeded in raising hourly rates sufficiently to make up half of the overtime it got during the war. But even that will not come without much straining. Even if the unions can hold the line on hourly rates, the national payroll will drop as workers are downgraded from the jobs to which they were promoted in the heat of war production.

The clearest description of labor's prospects came from WLB Chairman George W. Taylor in June, 1945:

"A large number of employees in factories whose war production is no longer needed face at least a temporary layoff, and then employment at lower wages than have been received during the past several years. The loss of take-home pay as a result of reduced overtime hours is but a part of their problem. I don't know of many employers who propose to reduce basic wage rate schedules. They'll still pay a common labor rate of say $.65 an hour and a helper rate of, say, $.70 an hour. But instead of a set-up of 10 helpers for one common laborer, the assignments may become, for example, 10 common laborers for each helper.

"Nor do I wish to imply that every downgrading situation will be improper. On the contrary, a considerable amount of downgrading and reclassification of employees is to be expected as a normal aspect of the reconversion period. I do emphasize that this process and similar ones mean that the wages paid to the average employee for an hour's work will go down in many cases without any change in wage rate schedules. As war plants reduce their personnel, moreover, thousands of employees will return to their old, lower wage occupations in other industries and services. . . .

"There are formidable difficulties blocking the development of a program adequately to meet the impending changes in the wage picture. It is my own personal opinion that we cannot simply say that as hours are reduced weekly take-home pay will be preserved."[5]

From another angle, however, labor was clearly better off as a result of the manipulations of wage stabilization policy in the past few years. The WLB, though keeping a ceiling over wages, has contributed much toward the rationalizing of wage structures, the elimination of inequities between the pay earned by workers in different job classifications, the establishment of some sensible differential between the relative skills, and the creation of greater wage uniformity between plants in the same area.

But in connection with this last, the unions still face a real danger which will not be easily overcome. In ironing out interplant inequities, the WLB set up wage brackets for the various industrial areas. No national standards were established but purely local ones. The effect was to sanctify geographical differentials and the result may be felt for some time to come. One of the certainties is that employers will close down some of their plants, no longer needed for war output. The decision as to which of two plants shall be kept running will naturally be based on economic factors, particularly efficiency of the equipment and the local wage rate. A number of the new, and therefore more efficient, plants are located in the South. Employers can easily shut down their Northern plants and move their operations to the cheap labor markets.

The war has thus encouraged an economic trend that was the despair of unions before the war, the "runaway shop." In order to avoid the influence of unions and the demand for higher pay, employers could pack up and move to the South. In those days, the main factor in staying such a decision was the expense involved in setting up a new plant. Now, the plant may be waiting, and nothing more will be involved than merely shutting down in the high-wage area. For many industries which will have to build plants anew in the reconversion process, the lure of low-wage areas will be great.

The members of the War Labor Board were not unaware of the explosive situation that could develop out of the wage bracket system. To the importunings of the unions the public members of the WLB were sympathetic. Will Davis, in one of his last speeches as chairman of the Board, declared: "It seems pretty clear that as we return to a more plentiful supply of labor —or even a shortage of jobs—and to competitive marketing of civilian products in contrast to the present market conditions, there will be need to de-emphasize the effect of area rates and to restore the emphasis in wage negotiations to the old basis."[6] When Japan surrendered, the WLB promptly dropped the bracket system, but area wages could not be automatically erased.

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[5] Address over Radio Station WDAF, Kansas City, Mo., June 11, 1945, WLB Release No. B–2044A.

In a report to the President, the public members indicated that labor had good reason to fear the future but pleaded for time and experience to help the WLB solve the problem. Scarcely two pages later in the report, however, the Board declared that it had enough experience to know that legislation would be necessary: "In the light of our experience, and of the changes in the economy since 1938, we raise the question whether it would not be appropriate to consider a statutory requirement that, in each industry, minimum rates for a limited number of key occupations above the minimum starting rate should be set, with a view to more effectively correcting substandards of living and, so far as possible, eliminating competitive advantages derived from the payment of inadequate differentials above the minimum starting rate."[7] The Board had taken a step in that direction in the textile industry where it introduced for the first time a system of "guide rates."[8]

One would have imagined that this recommendation for enlarging the minimum wage provisions of the Wage-Hour Law would have sparked the unions into motion on the Congressional front. But nothing happened. Even an innocuous resolution—not a bill—which called on Congress to state that it considered earnings under 65 cents an hour as substandard, did not get very far. A few unions, like the CIO Textile Workers and the AFL's Garment Workers, made a brief fight for it and then let go. That fight will be renewed. Ultimately the unions will revive their interest and such legislation will be enacted, but not in time to halt the deflation of wages. The history of social welfare legislation in the United States shows that the people must be burned before Congress will act. Only after the crisis is fully on us and depression has bludgeoned us into motion do we begin to take steps.

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[6] Speech at the New School for Social Research, February 19, 1945, WLB Release No. B–1967.

[7] *Wage Report*, etc., op. cit. supra, pages 23–4.

[8] Twenty-three Southern Cotton Textile Companies, op. cit. supra.

So long as the WLB can hold the line against wage cutting —and the Wage Stabilization Act gave it such powers for the war emergency—it can be expected to serve as a brake on the downhill trend of wage levels. The public members have said that they appreciate labor's fears "that wage rate increases are not likely to be made at a time when workers are being laid off because of cutbacks, when over-time is giving way to unemployment and work-spreading, and when the ranks of labor are being augmented by returning servicemen." [9] But their primary duty still remained to hold the line against inflation until it was sure the danger had ended. When that time comes, labor wondered, would there be a War Labor Board, and could it resist the economics of transition? Labor had acid recollections of the early Thirties when the unions had to choose between pay cuts and shutdowns. The handwriting was on the wall. Even before the defeat of Germany, a United Auto Workers local had to pioneer the hard road of negotiating a reduction in earnings.[10] There was no question about the facts or the good faith of the company which had already trimmed $100,000 from its executive payroll. The choice was less pay or no jobs.

Since labor expected deflation, it prepared new wage demands to meet it. The guaranteed annual wage, which the unions once raised as a bargaining point to be traded for other concessions, was now being sought in deadly earnest. Some 50 or 60 such plans were actually in operation in the country, but it was significant that they were successful only in industries which could calculate their total annual production fairly accurately in advance.[11] In the capital goods industries, where demand fluctuates widely from year to year depending on the production needs of other industries, the problem was much more difficult. As a national scheme, the plan could be effective only in some peacetime equivalent of the wartime controlled economy in which production scheduling was widely prevalent. At best, the unions realized, the application of the guaranteed annual wage would have to be done industry by industry, or company by company. For that reason, they declared, they would seek its introduction by collective bargaining rather than government fiat.

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[9] *Wage Report,* etc., op. cit. supra, page 19.

[10] Wood Brothers Thresher Co., 23 War Labor Reports xiv, decided April 12, 1945.

[11] *Guaranteed Employment and Annual Wage Plans,* Research and Statistics Report No. 25, National War Labor Board, Wage Stabilization Division, prepared by Alice Lenore Nielsen.

The guaranteed wage in the last analysis could be achieved if industry were able to assure the workers a guaranteed amount of employment during the year. Businessmen were not constitutionally opposed to the idea and would just as soon have seen employment regularized. As Eric Johnston said, "Steadier jobs mean high employment, high production, high wages and a sustained demand for the products of our farms and factories."[12] But the guarantee of all those factors, as the war had shown, required national planning, the scheduling of production, and the underwriting of a market for the products. Johnston concluded: "I think it is a mistake to force annual wages down the throats of management. This problem goes to the roots of our free society, and its freedom may be destroyed if we use the wrong means to gain the right ends. . . . Therefore, we must not strive for more security than is compatible with the preservation of freedom." On the other hand, he urged businessmen to re-examine their operations with a view to regularizing the flow of production and consequently of employment. Some, he was convinced, could do it.

But that would open up a whole new area of dispute in collective bargaining. Johnston apparently did not understand that his own program invited labor to poke its head into the company's production plans and market probabilities. If the workers' annual income can be guaranteed only by management's decision to iron out the seasonal humps in its production schedules, then labor would determine for itself what the business policy could be. In the automobile industry, for example, union leaders proposed that the companies reduce car prices in the off-seasons to encourage the market and thus bring about year-round employment for those in the factories. Management prerogative was challenged again.

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[12] *Saturday Evening Post,* March 31, 1945.

Because the workers' eternal yearning for security will now find different forms of expression—in guaranteed wage schemes, royalty systems, employer-financed insurance and welfare programs—new controversies are in the making. They will grow keener with every tightening of the economy as the nation moves back to peace. The war has enlarged the nation's workforce. Industry itself has been forced by manpower shortage to train millions of additional craftsmen, including many women who will refuse to retire; and the Army and Navy will be turning out men with easily adaptable skills acquired in the practice of mechanized warfare. As employment opportunities shrink to whatever level we call "normalcy," these workers will bid against each other in a free labor market, bringing down wage rates. More than that, efforts to bring the profit economy back into balance in accordance with the peacetime values placed on goods will mean the cutting of wages in some important areas.

The very circumstances in which the issue is likely to arise will make it virtually impossible for the unions to accede. Beginning in late 1944, whenever management and labor sat down to negotiate wage agreements, they realized that they might well be writing the postwar contract. No union leader would dare to report back to his membership that he had accepted a wage cut—not when the rank-and-file could vote down the contract or, failing that, could resign from the union in the 15-day escape period under the renewal of the maintenance-of-membership clause. As long as anything less than the union shop continues to operate, labor leaders must bring home the bacon from collective bargaining negotiations or lose their members.

Some compromises will undoubtedly be effected. Union leaders who do accept wage reductions because of the economic difficulties of the employer will exact the closed shop in place of membership-maintenance. Without it, the organization would crack. Where the employer consents, there will be peace; where he refuses, the unions will have no alternative but to strike.

Though organized labor's future is beset with the difficulties of a narrowing economy, it need not fear annihilation, unless the nation's failure to solve the reconversion problem leads to fascism. Numerically, the unions in America enter on the postwar adventure with the largest membership in their history. Union rolls will shrink, but never to the levels of 1933 when the AFL counted less than two and a quarter million. Even then, it was bigger than it had been in the days before World War I. After this war, the labor movement will continue to be big. But as Will Davis predicts: "There will be in the field of industrial relations a situation substantially different from anything in pre-war days. . . . That difference will lie in the increased size and organized strength of the parties to industrial disputes and in the absolute urgency to attain the high level of peacetime economy which I have already referred to. These two influences will, it seems to me, cause a greater number of industrial disputes to have a direct and immediate bearing on the general welfare."[13]

To meet that crisis, he declares, federal mediation and arbitration procedure will have to be expanded. After his experiences with the War Labor Board, he sees no prospect that in peacetime a compulsory arbitration machinery like the WLB can be maintained. Both industry and labor are eager to escape its mandates. At most, there will be only a governmental body which can examine the facts and make recommendations, with little more than the pressure of public opinion for enforcement.

In such a period of economic tension, what we have come to recognize as abuses in labor's tactics will be more frequent, not less. When a union is flourishing in an atmosphere of prosperity, there is less pressure for a resort to undemocratic practices. But if unemployment is rife, union members may insist that their organization operate as a closed corporation to keep out competitors who might threaten their jobs. In such circumstances, racial prejudice is invoked to bar potential job rivals; strikes against technology and insistence on the hiring of standbys become the methods by which workers seek to keep their bread and butter from being devoured by the labor-saving machine. Even the labor racketeer, whom the AFL has not yet extirpated from a number of its unions, gets a new lease on life when he promises the worker "protection" from the depredations of a faulty economy.

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[13] Speech at the New School, op. cit. supra.

As a result, legislative restrictions on union activities will find greater favor. The distrust of unions, artificially or genuinely aroused during the war, will make it easier to require unions to incorporate, get licenses, open their books to public inspection, and submit to government polls of the membership before striking. Every proven abuse will be used to justify such laws, though the innocent unions are punished with the guilty. But the only effect will be to make feeble unions more open to assault by revealing their weakness, while the strong will not be seriously hampered.

On the national scene, new efforts will be made to rewrite or repeal the Wagner Act, particularly to prohibit unfair labor practices by employees. Even more fundamental changes will be sought in labor legislation, such as compulsory arbitration of industrial disputes along the lines pursued by the War Labor Board during the war.

The first of these came in June, 1945, the product of 18 months of study largely financed by a Philadelphia soap manufacturer, Samuel A. Fels. Sponsored by Senators Joseph H. Ball, Harold H. Burton, and Carl A. Hatch, it called for the abolition of the NLRB and the creation of new agencies which would carry out mediation and compulsory arbitration in disputes affecting the public utilities and public services like milk, coal, or oil. It listed certain union policies as unfair labor practices along with those already contained in the Wagner Act. Strikes over grievances arising from the interpretation of union contracts would be barred in all cases. Closed-shop contracts would be limited to situations where at least 75 percent of the workers were union members and 60 percent of all the employees involved approved the closed shop; to be eligible for such a contract, the union would have to admit all qualified applicants and follow fair procedures in expelling any individual from membership. In addition, the broad coverage of the Wagner Act would be cut down by a narrower definition of interstate commerce. And finally, an Unfair Labor Practices Tribunal, in addition to its trial duties, would be instructed to study the need for further legislation on the regulation of internal union democracy.[14]

But the odds were heavily against this substitution of government decision for the rough-and-tumble of free collective bargaining. Both labor and management have not enjoyed their experience with the WLB and would sooner trust in the arbitraments of economic war. Both sides know that if final authority to write union contracts is vested in government, the question will become: Who controls the government? And neither is certain of the answer.

Never before have the unions had greater need for labor statesmanship and broader vision. There is hope that such leadership is beginning to emerge. In the past, when the unions were concerned daily with the elemental problem of survival, leadership was not necessarily vested in the hands of the wise but in the hands of the strong. With union recognition no longer a major aim, labor needs men equipped to give economic guidance, though they will be no more welcome to industry than was the old kind of unionist whose chief claim to union office was his power to keep workers on the picket line despite hunger and tear gas.

In part, this new leadership will be created by the dynamics of responsibility itself which makes men gain in stature to meet the challenge. To some extent the war began that process. It put union spokesmen on government boards where, even though without real authority, they had to face the problems on which authority was exercised. In some cases, the result was only to give union leaders a taste of the governmental flesh-pot and create a rift between them and their rank-and-file; to others, it gave an enlarged outlook on the duties they and their organizations would have to assume.

But to pretend that the unions are already rich in leadership is unrealistic. The ineptness with which they frequently conduct their own affairs, the fruitless civil war between the AFL and the CIO, the lack of long-run vision, and the concentration on immediate benefits, indicate that labor has a long way to go. As government in a democracy is a reflection of the wisdom of the people, so union leaders are cast in the image, if not the dimensions, of their members. A Sidney Hillman mirrors a cynical membership, whose sophistication is tinged by a hope that things can somehow be better. In the coal fields, the miners who face danger daily in the loneliness of the pits, accept their grimy isolation proudly and send out a belligerent Lewis to do battle with the well-washed plutocrats. For the conservative AFL, what could be more representative than Bill Green, the Baptist lay preacher, eager to please and quick to be outraged by heresy? For the groping CIO, what more typical than Phil Murray, a self-doubting bundle of contradictions, a Scotch Catholic who mourns a lost friendship but goes stubbornly down the unfamiliar road with unsure steps?

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[14] S. 1171, 79th Congress, 1st Session, introduced June 20, 1945.

This labor movement will mature only as its members grow. As a rule, the leaders are the best of the rank-and-file, somewhat in the forefront but always looking back lest they get too far ahead. The further the membership moves, the quicker the leaders will advance. Some of them are aware of it, have organized educational departments and research staffs to speed the process, but they are in the minority. Mark Starr, one of the most capable labor educators in the country, reported in 1941 that "the potentiality of workers' education, maintained and utilized by organized workers, has not yet been scratched." The war has since improved the situation somewhat, but powerful unions like the Mine Workers and the Railroad Brotherhoods have not even approached the outermost edges of the adequate. Even the Steelworkers, despite its economic research department, has failed to make any impressive showing, though CIO unions, particularly on the left wing, are generally out in front. Groups like the Workers Education Bureau, sponsored by the AFL, and the independent American Labor Education Service have done a great deal to stimulate the unions, but much is wanting.

The educational and cultural failures of the unions are doubly significant for the future. Unlike the European organizations, American unions have always lost the allegiance of their members during hard times. A sage labor leader, observing the rush of workers to sign up during prosperity, commented knowingly, "We've got them organized; now we've got to unionize them." Only systematic union education can do that. But whenever the unions have most need of educating their members, in days of depression, the first cut in the budget is generally in the educational department.

The labor press, the most direct medium for lifting the intellectual level of the members and cultivating their loyalty, is not impressive. Newspapermen who could earn repute and better salaries elsewhere edit their little sheets with love and loyalty, but their heartbreaks are even greater than those of journalists dominated by the "front office." Much of the limited wordage in the labor paper must go for the glorification of the union officials; every local must be given its share of ems, however unimportant its activities; the shortage of space prevents appealing layout; the constant intervention of union officialdom makes the journalistic result something less than Pulitzer prize-winning.

Yet only through its own educational activities and its press can labor hope to acquire the wisdom it needs if it is to make an original contribution to the nation's thinking and work out a "labor program." Like the individual businessmen with whom the unions deal, labor organizations are not the single-minded group their opponents imagine. They are as jealous of their "autonomy" as any advocate of states' rights. Like businessmen charting their own course, they do not stop to consider the effects of their policies on the national economy or on other unions. If an employer can raise prices, cut quality, limit his output, and still make more profit, he will do it; if a labor union can raise wages and reduce working time, it will do it, regardless of production and the general consequences. Both labor and management can spot this mote in each other's eye at fifty paces.

So long as the welfare of each depends, in great measure, on how much can be exacted from the other, there will be no agreement on causes and cures. The fictitious partnership of labor and capital will continue to wind up in the courts, in heated arbitration proceedings, before state and federal Labor Relations Boards, and in the more flagrant battles of the strike and lockout. At the moment, business has the greater responsibility since, despite the New Deal, it holds the power to initiate industrial policy. But the unions cannot escape their responsibility. If they are to complain of the periodic depressions, they must come forward with a program that will eliminate the recurring cycle of unemployment. Instead, they prefer to share in the prosperity of the upsweep, and shout curses at the system in the downsweep. It is a sign of infantilism to kick the chair when you trip over it and caress it when you are ready to sit down.

For years, labor spokesmen have argued that the grip of the economic royalists must be broken. But they have not yet offered an over-all program that goes beyond a desire to bargain with industry over the problems of individual enterprises. Society has the right to ask what labor wants done with the economy. The question is real because labor control, if not immediately probable, is distinctly possible. The mechanisms of our democracy encourage the dominance of the largest individual group with common interests, and in the America of today organized labor in alliance with the lower middle class can become that group. There is even good reason to believe that a few years of postwar distress might finally rouse the political ambitions of labor and give it a governmental control which it is not now ready to wield. What then?

So far the unions have offered no coherent answer to the basic problem which free enterprise admittedly has not solved: Are freedom and security compatible? In the confusion which has assailed men eager for both, there has been no attempt even to define the terms. The conflict between the two has been demonstrated in the revolutionary experiences of Germany, Italy, and Russia. Only the daring claim to have discovered the touchstone that makes possible in the fullness of the one a complete realization of the other. It may well be that the world has grown so complicated and men have become so interdependent in their search for a livelihood, that we are now compelled to accept a conscious compromise between them. We may no longer be able to choose freedom *or* security but may have to strike a balance between so much freedom and so much security. But unless the makers of policy are prepared at least to indicate the relative quantities of each for which the nation must strive, history will strike its own blind balance, leaving us little of either.

The debates of a decade have not yet resolved any fundamentals. Neither labor nor management can decide whether government is friend or foe—the instrumentality of freedom or security or both. Neither is prepared to say just how much of government there should be in labor relations, in production, in distribution, whether new forms of ownership, like the public corporation, should be extended. Neither has faced up to the reality that the simple lines of laissez faire have been permanently erased and that new lines must be drawn.

Now with the close of the most terrible war in all history, the nation faces the same uncertainty that followed the end of the American Revolution when a loose confederation proved inadequate for a people eager to be on its way to both freedom and security. Under the new constitution, Jefferson could pledge himself to "a wise and frugal government which shall restrain men from injuring one another, shall leave them free to regulate their own industry and improvement, and shall not take from the mouth of labor the bread it has earned." In the simple, unindustrialized communities of a handful of states, that promise was possible. Now, in our own day, no candidate for office proposes to withdraw government completely from the task of helping the people gain access to food, clothing, and shelter.

As drought is the scourge of the farmer, depression is the plague of labor. Removed from the soil which gives him food, remote from the sources of power and fuel, unpossessed of the complicated tools of twentieth century production, the individual is no longer the master of his personal fate.

The task ahead is to re-examine the circle of human affairs and redefine the privileges and duties of the individual, of government, of management and labor. As once the American people decided to surrender some sovereign rights to a central authority and to retain others, it must now delegate certain economic powers and by an economic bill of rights withhold others. Continued failure to face these problems can lead only to unconscious drift in which the state, to end the unendurable conflict, becomes the master of all. In such an outcome, there can be only frustration for those who want bread sweetened by liberty. Whatever the course, through conscious social organization or blind evolution, the road is long and hard.

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